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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, DC 20549

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**FORM 8-K**

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**CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

**March 10, 2017**  
**Date of report (date of earliest event reported)**

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**LPL Financial Holdings Inc.**  
**(Exact name of registrant as specified in its charter)**

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**Delaware**  
**(State or other jurisdictions of  
incorporation or organization)**

**001-34963**  
**(Commission  
File Number)**

**20-3717839**  
**(I.R.S. Employer  
Identification Nos.)**

**75 State Street**  
**Boston MA 02109**  
**(Address of principal executive offices) (Zip Code)**

**(617) 423-3644**  
**(Registrant's telephone number, including area code)**

**N/A**  
**(Former Name or Former Address, if Changed since Last Report)**

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrants under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01 Entry into a Material Definitive Agreement.***Issuance of 5.750% Senior Notes due 2025*

On March 10, 2017 (the “Effective Date”), LPL Holdings, Inc. (“LPL Holdings”), a wholly owned subsidiary of LPL Financial Holdings Inc. (the “Company”), completed the issuance and sale of \$500 million aggregate principal amount of 5.750% Senior Notes due 2025 (the “Notes”). The Notes were issued pursuant to an Indenture, dated March 10, 2017, among LPL Holdings, U.S. Bank National Association, as trustee, and certain subsidiaries of LPL Holdings as guarantors. The net proceeds from the Notes offering, together with proceeds from the new senior secured Term Loan B and cash from LPL Holdings’ balance sheet, was used to refinance LPL Holdings’ existing senior secured credit facilities, to pay fees and expenses related to the notes offering and the refinancing.

The Notes are unsecured obligations of LPL Holdings, will mature on September 15, 2025 and will bear interest at the rate of 5.750% per year, with interest payable semi-annually on March 15 and September 15 of each year, beginning on September 15, 2017. LPL Holdings may redeem all or part of the Notes at any time prior to March 15, 2020 (subject to a customary “equity claw” redemption right) at 100.000% of the principal amount redeemed plus a “make-whole” premium. Thereafter LPL Holdings may redeem all or part of the Notes at annually declining redemption premiums until March 15, 2023, at and after which date the redemption price will be equal to 100.000% of the principal amount redeemed.

The foregoing description of the Notes is qualified in its entirety by reference to the indenture relating thereto, a copy of which is filed as Exhibit 4.1 to this Current Report on Form 8-K.

*Senior Secured Credit Facilities*

LPL Holdings refinanced its existing senior secured credit facilities on the Effective Date by entering into a fourth amendment agreement (the “Amendment”), which amended and restated the Credit Agreement, dated as of March 29, 2012, among LPL Holdings, the Company, JPMorgan Chase Bank, N.A., as administrative agent (“Administrative Agent”), swing line lender and letter of credit issuer, and the lenders and the other parties party thereto from time to time (as amended by the first amendment and incremental assumption agreement, dated as of May 13, 2013, the second amendment, extension and incremental assumption agreement dated as of October 1, 2014, the consent to amendment agreement dated as of November 21, 2014 and the third amendment, extension and incremental assumption agreement, dated as of November 20, 2015, the “Existing Credit Agreement”) (the senior credit facilities as so amended and restated, the “New Credit Agreement”) and amended the Security Agreement (as defined in the Existing Credit Agreement).

Pursuant to the Amendment, LPL Holdings refinanced all of its outstanding term loans with a new \$1,700 million seven year Term Loan B facility and refinanced its existing revolving credit facility with a new five year \$500 million revolving credit facility.

Borrowings under the new Term Loan B facility bear interest at a rate per annum of 250 basis points over the Eurodollar Rate (as defined in the New Credit Agreement), and have no leverage or interest coverage maintenance covenants. Borrowings under the new revolving credit facility bear interest at a rate per annum ranging from 150 to 200 basis points over the Eurodollar Rate, depending on the Consolidated Secured Debt to Consolidated EBITDA Ratio (as defined in the New Credit Agreement). The Eurodollar Rate option is the one, two, three or six month LIBOR rate, as selected by LPL Holdings, or, with the approval of the applicable lenders, twelve month LIBOR rate or the LIBOR rate for another period acceptable to the Administrative Agent (including a shorter period). The Eurodollar Rate is subject to an interest rate floor of 0.0%.

The new Term Loan B facility requires scheduled quarterly amortization payments (commencing with the fiscal quarter ending June 30, 2017), each equal to 0.25% of the original principal amount of the loans under the new Term Loan B facility.

The New Credit Agreement requires the same mandatory prepayments as provided under the Existing Credit Agreement, except that the 50% excess cash flow prepayment is subject to a step down to 25% of excess cash flow if total net leverage is less than or equal to 3.50:1.00.

Voluntary prepayments of the new Term Loan B facility in connection with a Repricing Transaction, as defined in the New Credit Agreement, on or prior to six months after the Effective Date will be subject to a call premium of 1.0%. Otherwise, outstanding loans under the new Term Loan B facility may be voluntarily prepaid at any time without premium or penalty.

The new revolving credit facility requires LPL Holdings and its restricted subsidiaries to comply with a maximum Consolidated Total Debt to Consolidated EBITDA Ratio (as defined in the New Credit Agreement) and a minimum Consolidated EBITDA to Consolidated Interest Expense Ratio (as defined in the New Credit Agreement), tested as of the last day of each fiscal quarter. The breach of this covenant is subject to certain equity cure rights.

In addition, the New Credit Agreement contains customary affirmative and negative covenants and events of default.

The foregoing description of the senior secured credit facilities is qualified in its entirety by reference to the amendment agreement relating thereto, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K.

**Item 2.03            Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information set forth above under Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

**Item 7.01            Regulation FD Disclosure.**

On March 10, 2017, the Company issued a press release announcing the completion of LPL Holdings' leverage-neutral debt refinancing. A copy of the press release is attached as Exhibit 99.1 to this Current Report on Form 8-K.

Exhibit 99.1 shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities under that Section and shall not be deemed to be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Exchange Act.

**Item 9.01            Financial Statements and Exhibits.**

(d) Exhibits

- 4.1 Indenture, dated March 10, 2017, among LPL Holdings, U.S. Bank National Association as trustee and certain subsidiaries of LPL Holdings as guarantors.
- 10.1 Fourth Amendment Agreement, dated March 10, 2017, among the Company, LPL Holdings, the other credit parties party thereto, the lenders party thereto and JPMorgan Chase Bank, N.A. as administrative agent, and the other parties thereto.
- 99.1 Press Release dated March 10, 2017 ("LPL Financial Announces Completion of Leverage-Neutral Debt Refinancing ")

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

LPL FINANCIAL HOLDINGS INC.

By: /s/ Matthew J. Audette

Name: Matthew J. Audette

Title: Chief Financial Officer

Dated: March 10, 2017

INDENTURE

Dated as of March 10, 2017

Among

LPL HOLDINGS, INC.,

THE GUARANTORS NAMED ON THE SIGNATURE PAGES HERETO

and

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

5.750% SENIOR NOTES DUE 2025

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EXHIBITS

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INDENTURE, dated as of March 10, 2017, among LPL Holdings, Inc., a Massachusetts corporation (the “Company”), the Guarantors (as defined herein) listed on the signature pages hereto and U.S. Bank National Association, a national banking association, as Trustee.

W I T N E S S E T H

WHEREAS, the Company has duly authorized the creation of an issue of \$500,000,000 aggregate principal amount of 5.750% Senior Notes due 2025 (the “Initial Notes”);

WHEREAS, the obligations of the Company with respect to the due and punctual payment of the principal of, premium, if any, and interest on the Notes and the performance and observation of each covenant and agreement under this Indenture on the part of the Company to be performed or observed will become unconditionally and irrevocably guaranteed by the Guarantors; and

WHEREAS, each of the Company and the Guarantors has duly authorized the execution and delivery of this Indenture.

NOW, THEREFORE, the Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders.

ARTICLE 1

DEFINITIONS

Section 1.01 Definitions.

“100% Non-Guarantor Pledgee” means any Restricted Subsidiary of the Company for which 100% of the Capital Stock of which has been pledged as collateral to secure Obligations under any Credit Facility.

“144A Global Note” means a Global Note substantially in the form of Exhibit A bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of, and registered in the name of, the Depositary or its nominee that will be issued in a denomination equal to the outstanding principal amount of the Notes sold in reliance on Rule 144A.

“Acquired Indebtedness” means, with respect to any specified Person,

(1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Restricted Subsidiary of such specified Person, and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

“Additional Notes” means any additional Notes (other than the Initial Notes) issued from time to time under this Indenture in accordance with Sections 2.01 and 4.09.

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

“Agent” means any Registrar or Paying Agent.

“Applicable Premium” means, with respect to any Note on any Redemption Date, the greater of:

(1) 1.0% of the principal amount of such Note; and

(2) the excess, if any, of (a) the present value at such Redemption Date of (i) the redemption price of such Note at March 15, 2020 (such redemption price being set forth in Section 3.07(b)), plus (ii) all required remaining scheduled interest payments due on such Note through March 15, 2020 (excluding accrued but unpaid interest to the Redemption Date), computed using a discount rate equal to the Treasury Rate plus 50 basis points; over (b) the principal amount of such Note.

“Applicable Procedures” means, with respect to any transfer or exchange of or for, redemption of, or notice with respect to beneficial interests in any Global Note, the rules and procedures of the Depository, Euroclear and/or Clearstream that apply to such transfer, exchange, redemption or repurchase.

“Asset Sale” means:

(1) the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions, of property or assets (including by way of a Sale and Lease-Back Transaction) of the Company or any of the Restricted Subsidiaries (each referred to in this definition as a “disposition”); or

(2) the issuance or sale of Equity Interests of any Restricted Subsidiary (other than Preferred Stock of Restricted Subsidiaries issued in compliance with Section 4.09), whether in a single transaction or a series of related transactions;

in each case, other than:

(a) any disposition of Cash Equivalents or Investment Grade Securities or obsolete or worn out equipment in the ordinary course of business, or any disposition of inventory or goods (or other assets) held for sale or no longer used in the ordinary course of business;

- (b) the disposition of all or substantially all of the assets of the Company in a manner permitted pursuant to the provisions described under Section 5.01 or any disposition that constitutes a Change of Control pursuant to this Indenture;
- (c) the making of any Permitted Investment or Restricted Payment that is permitted to be made, and is made, under Section 4.07;
- (d) any disposition of assets or issuance or sale of Equity Interests of any Restricted Subsidiary in any transaction or series of transactions with an aggregate fair market value of less than \$50,000,000;
- (e) any disposition of property or assets or issuance of securities by a Restricted Subsidiary to the Company or by the Company or a Restricted Subsidiary to another Restricted Subsidiary;
- (f) to the extent allowable under Section 1031 of the Code or any comparable or successor provision, any exchange of like property (excluding any boot thereon) for use in a Similar Business;
- (g) the lease, assignment, sub-lease, license or sub-license of any real or personal property in the ordinary course of business;
- (h) any issuance, sale or pledge of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;
- (i) foreclosures, condemnation, eminent domain or any similar action on assets or the granting of Liens not prohibited by this Indenture (including any Permitted Lien);
- (j) transfers of accounts receivable, or participations therein, in connection with any Receivables Facility;
- (k) any financing transaction with respect to property owned, built or acquired by the Company or any Restricted Subsidiary after the Issue Date, including Sale and Lease-Back Transactions (other than Permitted Sale and Lease-Back Transactions) and asset securitizations permitted by this Indenture;
- (l) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or other litigation claims in the ordinary course of business;
- (m) the sale, lease, assignment, license, sublease, sublicense or discount of inventory, equipment, accounts receivable, notes receivable or other current assets in the ordinary course of business or the conversion of accounts receivable to notes receivable; or other dispositions of accounts receivable in connection with the collection or compromise thereof;

- (n) the licensing or sub-licensing of intellectual property or other general intangibles in the ordinary course of business;
- (o) the unwinding of any Hedging Obligations;
- (p) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;
- (q) the lapse or abandonment of intellectual property rights in the ordinary course of business, which in the reasonable good faith determination of the Company (i) are not material to the conduct of the business of the Company and the Restricted Subsidiaries taken as a whole or (ii) are no longer economically practicable or commercially reasonable to maintain;
- (r) the issuance of directors' qualifying shares and shares issued to foreign nationals or other third parties as required by applicable law;
- (s) sales of non-core assets acquired in connection with acquisitions otherwise permitted under this Indenture that are not used in the business of the Company or any Restricted Subsidiary; provided that no long-term Indebtedness was incurred by the Company or a Restricted Subsidiary in connection with such acquisition; and
- (t) dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) an amount equal to the Net Proceeds of such disposition are promptly applied to the purchase price of such replacement property.

For purposes of determining compliance with this definition, (A) in the event that a transaction (or a portion thereof) meets the criteria of one or more of the categories set forth in clauses (a) through (t) above and would also be a permitted Restricted Payment or Permitted Investment, the Company, in its sole discretion, will be entitled to divide and classify such transaction (or a portion thereof) as a disposition under such categories and/or one or more of the types of permitted Restricted Payments or Permitted Investments and (B) availability and utilization of any category of financial ratio based exceptions, thresholds and baskets shall first be calculated without giving effect to amounts to be utilized under any other category of exceptions, thresholds and baskets at such time of determination (including at the time of any initial division and classification and any later re-divisions and reclassifications) and thereafter, availability and utilization of any category of exceptions, thresholds and baskets that are not financial ratio based shall be calculated.

"Bank Lender" means any lender or holder or agent or arranger of Indebtedness under the Credit Facilities.

“Bank Products” means any facilities or services related to cash management, including treasury, depository, overdraft, credit or debit card, automated clearing house fund transfer services, purchase card, electronic funds transfer (including non-card e-payables services) and other cash management arrangements and commercial credit card and merchant card services.

“Bankruptcy Code” means Title 11 of the United States Code, as amended.

“Bankruptcy Law” means the Bankruptcy Code and any similar federal, state or foreign law for the relief of debtors.

“Board” with respect to a Person means the board of directors (or similar body) of such Person or any committee thereof duly authorized to act on behalf of such board of directors (or similar body).

“Broker-Dealer Regulated Subsidiary” means any Subsidiary of the Company, without respect to SEC Rule 15c(3)-3, that is registered as a broker-dealer under the Exchange Act or any other applicable law requiring such registration.

“Business Day” means each day which is not a Legal Holiday.

“Capital Markets Indebtedness” means any Indebtedness consisting of bonds, debentures, notes or other similar debt securities issued in (a) a public offering registered under the Securities Act, (b) a private placement to institutional investors that is resold in accordance with Rule 144A or Regulation S under the Securities Act, whether or not it includes registration rights entitling the holders of such debt securities to registration thereof with the SEC or (c) a private placement to institutional investors. For the avoidance of doubt, the term “Capital Markets Indebtedness” does not include any Indebtedness under commercial bank facilities, loans, Indebtedness incurred in connection with a Sale and Lease-Back Transaction, Indebtedness incurred in the ordinary course of business of the Company, Capitalized Lease Obligations or recourse transfer of any financial asset or any other type of Indebtedness incurred in a manner not customarily viewed as a “securities offering.”

“Capital Stock” means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person;

but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such securities include any right of participation with Capital Stock.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) in accordance with GAAP; provided that (a) all leases of any Person that are or would be characterized as operating leases in accordance with GAAP as in effect on the Issue Date (whether or not such operating leases were in effect on such date) shall continue to be accounted for as operating leases (and not as capital leases) for purposes of this Indenture regardless of any change in GAAP following the Issue Date that would otherwise require such obligations to be recharacterized (on a prospective or retroactive basis or otherwise) as capitalized lease obligations, Capitalized Lease Obligations or Indebtedness and any payments in respect of such obligations shall not constitute Consolidated Interest Expense or Fixed Charges and (b) the Fort Mill Real Property Liabilities shall not be considered Capitalized Lease Obligations for purposes of this Indenture.

“Capitalized Software Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by the Company and the Restricted Subsidiaries during such period in respect of purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of the Company and the Restricted Subsidiaries.

“Captive Insurance Subsidiary” means (i) any Subsidiary established by the Company for the primary purpose of insuring the businesses or properties owned or operated by the Company or any of its Subsidiaries or (ii) any Subsidiary of any such insurance subsidiary established for the same primary purpose described in clause (i) above.

“Cash Equivalents” means:

- (1) United States dollars and Canadian dollars;
- (2) (a) euro, pounds sterling or any national currency of any participating member state of the EMU; or  
(b) other local currencies held by the Company and the Restricted Subsidiaries from time to time in the ordinary course of business;
- (3) securities issued or directly and fully and unconditionally guaranteed or insured by the U.S. government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition;
- (4) certificates of deposit, time deposits and eurodollar time deposits with maturities of two years or less from the date of acquisition, demand deposits, bankers’ acceptances with maturities not exceeding two years and overnight bank deposits, in each case with any commercial bank having capital and surplus of not less than \$250,000,000 in the case of U.S. banks and \$100,000,000 (or the U.S. Dollar Equivalent as of the date of determination) in the case of non-U.S. banks;

(5) repurchase obligations for underlying securities of the types described in clauses (3) and (4) above and clause (11) below entered into with any financial institution meeting the qualifications specified in clause (4) above or securities dealers of recognized national standing;

(6) (a) commercial paper or variable or fixed rate notes issued by or guaranteed by any lender under the Senior Credit Agreement or any bank holding company owning any lender under the Senior Credit Agreement and (b) commercial paper and variable or fixed rate notes rated investment grade by either Moody's or S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) and in each case maturing within 24 months after the date of acquisition;

(7) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency);

(8) Indebtedness or Preferred Stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's with maturities of 24 months or less from the date of acquisition;

(9) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated within the top three ratings categories by S&P or by Moody's;

(10) readily marketable direct obligations issued by any foreign government or any political subdivision or public instrumentality thereof, in each case having an Investment Grade Rating from either Moody's or S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another Rating Agency) with maturities of 24 months or less from the date of acquisition;

(11) readily marketable direct obligations issued by any state, commonwealth or territory of the United States of America or the European Union or any political subdivision or taxing authority thereof having an Investment Grade Rating from either Moody's or S&P (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) with maturities of 24 months or less from the date of acquisition; and

(12) investment funds investing at least 90% of their assets in securities of the types described in clauses (1) through (11) above.

In the case of Investments by any Restricted Subsidiary that is a Foreign Subsidiary or Investments made in a country outside the United States of America, Cash Equivalents shall also include (a) investments of the type, credit quality and maturity



described in clauses (1) through (12) above of foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable internationally recognized foreign rating agencies and (b) other short-term investments utilized by Restricted Subsidiary that is a Foreign Subsidiary in accordance with customary investment practices for cash management in investments analogous to the foregoing investments in clauses (1) through (12) and in this paragraph.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (1) and (2) above; provided that such amounts, except amounts used to pay non-dollar denominated obligations of the Company or any Restricted Subsidiary in the ordinary course of business, are converted into any currency listed in clauses (1) and (2) as promptly as practicable and in any event within ten (10) Business Days following the receipt of such amounts.

“Casualty Event” means any event that gives rise to the receipt by the Company or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“Change of Control” means the occurrence of any of the following:

(1) the sale, lease or transfer, in one or a series of related transactions (including by way of merger, consolidation, amalgamation or other business combination), of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person or a group of related Persons (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision); or

(2) the Company becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) the acquisition by any Person or Persons that are together a group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any such group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), in a single transaction or in a related series of transactions, by way of merger, consolidation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision) of 50% or more of the total voting power of the Voting Stock of the Company directly or through the acquisition of voting power of the Voting Stock of the Company’s direct or indirect parent companies.

“Clearstream” means Clearstream Banking, S.A. or any successor securities clearing agency.

“Code” means the Internal Revenue Code of 1986, as amended, or any successor thereto.

“Company” has the meaning set forth in the preamble of this Indenture.

“Consolidated Depreciation and Amortization Expense” means with respect to any Person and its Restricted Subsidiaries for any period, the total amount of depreciation and amortization expense, including the amortization of deferred financing fees or costs, Capitalized Software Expenditures and intangible assets established through recapitalization or purchase accounting of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“Consolidated EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period,

(1) increased (without duplication) by:

(a) provision for taxes based on income or profits or capital, including, without limitation, federal, foreign, state, franchise, excise, value added and similar taxes and foreign withholding taxes of such Person paid or accrued during such period deducted (and not added back) in computing Consolidated Net Income (including taxes in respect of repatriated funds and any penalties and interest related to such taxes or arising from any tax examinations); plus

(b) Fixed Charges and, to the extent not reflected in Fixed Charges, bank and letter of credit fees and net losses on Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, amortization of deferred financing fees or costs, costs of surety bonds in connection with financing activities, together with items excluded from the definition of “Consolidated Interest Expense” pursuant to clauses (1)(i) through (1)(xii) thereof, to the extent the same were deducted (and not added back) in calculating such Consolidated Net Income; plus

(c) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent the same were deducted (and not added back) in computing Consolidated Net Income; plus

(d) the amount of any restructuring charge, accrual or reserve or nonrecurring (on a per-transaction basis) integration costs, and related costs and charges, deducted (and not added back) in such period in computing Consolidated Net Income, including any one-time (on a per-transaction basis) costs or charges incurred in connection with acquisitions; plus

(e) any other non-cash charges, including (1) all non-cash compensation expenses and costs, (2) the non-cash impact of recapitalization or purchase accounting, (3) the non-cash impact of accounting changes or restatements, (4) any non-cash portion of operating lease expense and (5) other non-cash charges, in each case, reducing Consolidated Net Income for such period (provided that to the extent that any such non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent; and provided further that amortization of a prepaid cash item that was paid in a prior period shall be excluded); plus

(f) the amount of any non-controlling interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any non-Wholly Owned Subsidiary deducted (and not added back) in such period in calculating Consolidated Net Income, excluding cash distributions in respect thereof to the extent already included in Consolidated Net Income; plus

(g) the amount of any unusual or non-recurring charges, operating expenses directly attributable to the implementation of cost savings initiatives and executive employment agreements, severance costs, relocation costs (including duplicative running costs), integration costs and facilities' opening costs, signing costs (other than in connection with onboarding advisors), retention or completion bonuses (other than in connection with onboarding advisors) and transition costs (other than in connection with onboarding advisors) and costs related to closure and/or consolidation of facilities and other business optimization expenses and reserves, in each case, to the extent the same were deducted (and not added back) in computing Consolidated Net Income; plus

(h) pro forma adjustments, including pro forma "run rate" cost savings, operating expense reductions, and other synergies related to mergers, business combinations, acquisitions, investments, dispositions and other similar transactions, or related to restructuring initiatives, cost savings initiatives and other initiatives and projected by the Company in good faith to result from actions that have been taken, actions with respect to which substantial steps have been taken or actions that are expected to be taken (in each case, in the good faith determination of the Company), in any such case, during the period through the eight full fiscal quarters after the date of consummation of such merger, business combination, acquisition, investment, disposition or other similar transaction or the initiation of such restructuring initiative, cost savings initiative or other initiatives; provided that, for the purpose of this clause (h), (A) any such adjustments shall be added to Consolidated EBITDA until fully realized and shall be calculated on a pro forma basis as though such adjustments had been realized on the first day of the relevant four-quarter period, and shall be calculated net of the amount of actual benefits realized from such actions, (B) any such adjustments shall be reasonably identifiable, (C) no such adjustments shall be added pursuant to this clause (h) to the extent duplicative of any items related to adjustments included in the definition of Consolidated Net Income, Fixed Charge Coverage Ratio, Consolidated Secured Debt Ratio or Consolidated Total Debt Ratio or clause (d) above and (D) "run rate" shall mean the full recurring benefit that is associated with any such action; plus

(i) Receivables Fees and the amount of loss on sale of receivables and related assets to the Receivables Subsidiary in connection with a Receivables Facility, to the extent deducted (and not added back) in computing Consolidated Net Income; plus

(j) any costs or expense incurred by the Company or a Restricted Subsidiary pursuant to any management equity plan or share option plan or any other management or employee benefit plan or agreement, any severance agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are deducted (and not added back) in computing Consolidated Net Income, funded with cash contributed to the capital of the Company or net cash proceeds of an issuance of Equity Interest of the Company (other than Disqualified Stock) solely to the extent that such net cash proceeds are excluded from the calculation set forth in clause (3) of Section 4.07(a); plus

(k) cash received in respect of acquired contingent commission revenue in such period, to the extent such revenue does not constitute Consolidated Net Income in such period; provided that if such revenue later constitutes Consolidated Net Income in a subsequent period, it will reduce Consolidated EBITDA in such period to the extent such revenue so constitutes Consolidated Net income; plus

(l) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not otherwise included in Consolidated EBITDA in any period to the extent non-cash gains relating to such receipts were deducted in the calculation of Consolidated EBITDA pursuant to clause (2) below for any previous period and not added back; plus

(m) (A) the amount of management, monitoring, consulting and advisory fees, indemnities and related expenses paid or accrued in such period to (or on behalf of) the Investors (including any amortization thereof) and (B) the amount of expenses relating to payments made to option holders of the Company or any Parent Entity in connection with, or as a result of, any distribution being made to shareholders of such Person or its direct or indirect parent companies, which payments are being made to compensate such option holders as though they were shareholders at the time of, and entitled to share in, such distribution; plus

(n) any net pension or other post-employment benefit costs representing amortization of unrecognized prior service costs, actuarial losses, including amortization of such amounts arising in prior periods, amortization of the unrecognized net obligation (and loss or cost) existing at the date of initial application of FASB Accounting Standards Codification 715, any non-cash deemed finance charges in respect of any pension liabilities, the curtailment or modification of pension and post-retirement employee benefit plans (including settlement of pension liabilities), and any other items of a similar nature; plus (or minus, as applicable)

(o) in respect of any Hedging Obligations that are terminated (or early extinguished) prior to the stated settlement date, any loss (or gain, as applicable ) reflected in Consolidated Net Income in or following the quarter in which such termination or early extinguishment occurs; and

(2) decreased by (without duplication) non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains to the extent they represent the reversal of any accrual of, or cash reserve for, anticipated cash items that reduced Consolidated EBITDA in any prior period.

of: “Consolidated Interest Expense” means, with respect to any Person and its Restricted Subsidiaries for any period, the sum, without duplication,

(1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP, with respect to all outstanding Indebtedness of such Person and its Restricted Subsidiaries, including (a) the accretion or amortization of original issue discount resulting from the incurrence of Indebtedness at less than par, (b) all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing, (c) the interest component of Capitalized Lease Obligations, and (d) net payments, if any, made (less net payments, if any, received) pursuant to obligations under Hedging Agreements for Indebtedness, but in any event excluding:

- (i) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses,
- (ii) any expenses resulting from discounting of Indebtedness in connection with the application of recapitalization accounting or purchase accounting,
- (iii) penalties or interest related to taxes and any other amounts of non-cash interest resulting from the effects of the acquisition method of accounting or pushdown accounting,
- (iv) any accretion or accrual of, or accrued interest on, discounted liabilities not constituting Indebtedness during such period,
- (v) non-cash interest expense attributable to the movement of the mark-to-market valuation of obligations under Hedging Agreements or other derivative instruments pursuant to FASB Accounting Standards Codification No. 815-Derivatives and Hedging,
- (vi) any one-time cash costs associated with breakage in respect of Hedging Agreements for interest rates,
- (vii) any interest in respect of items excluded from Indebtedness in the last proviso to the definition thereof,
- (viii) all additional interest or liquidated damages then owing pursuant to any registration rights agreement and any comparable “additional interest” or liquidated damages with respect to other securities designed to compensate the holders thereof for a failure to publicly register such securities,

- (ix) expensing of bridge, arrangement, structuring, commitment or other financing fees,
  - (x) any prepayment, redemption, repurchase, defeasance or similar premium, penalty or inducement or other loss in connection with the early repayment or the modification of Indebtedness paid or payable during such period,
  - (xi) Receivables Fees, commissions, discounts, yield and other fees and charges (including any interest expense) related to any Receivables Facility; and
  - (xii) any interest expense in respect of any Indebtedness outstanding under any Margin Lines of Credit; plus
- (2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; less
- (3) interest income from Cash Equivalents of such Person and its Restricted Subsidiaries for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“Consolidated Net Income” means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, and on an after-tax basis to the extent appropriate, and otherwise determined in accordance with GAAP; provided, however, that, without duplication:

- (1) any extraordinary, unusual or nonrecurring gains, losses or expenses, Public Company Costs, severance costs, relocation costs, integration costs, opening, consolidation and closing costs for facilities, signing, retention and completion bonuses, transition costs (other than signing, retention and completion bonuses or transition costs in connection with onboarding advisors) and restructuring charges, accruals or reserves and related charges (including restructuring costs related to acquisitions prior to and after the Issued Date) shall be excluded;
- (2) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period;
- (3) any net gains or losses realized on disposed or abandoned operations or on the sale or other disposition of any Capital Stock of any Person shall be excluded;
- (4) any net gains or losses realized attributable to asset dispositions other than in the ordinary course of business, as determined in good faith by the Company, shall be excluded;

(5) the Net Income for such period of any Person that is not the Company or a Restricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; provided that Consolidated Net Income of the Company shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash or Cash Equivalents (or, if not paid in cash or Cash Equivalents, but later converted into cash or Cash Equivalents, upon such conversion) to the referent Person or a Restricted Subsidiary thereof in respect of such period;

(6) [reserved];

(7) any income (loss) (less all fees and expenses or charges related thereto) from the purchase, acquisition, early extinguishment, conversion or cancellation of Indebtedness or Hedging Obligations or other derivative instruments (including deferred financing costs written off and premiums paid) shall be excluded;

(8) any impairment charge, asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets (including goodwill), long-lived assets, investments in debt and equity securities, the amortization of intangibles, and the effects of adjustments to accruals and reserves during a prior period relating to any change in the methodology of calculating reserves for returns, rebates and other chargebacks (including government program rebates), shall be excluded;

(9) any (i) non-cash compensation expense recorded from grants of stock appreciation or similar rights, profits interests, stock options, restricted stock or other rights or equity incentive programs and any non-cash charges associated with the rollover, acceleration or payout of Capital Stock or options with respect thereto by, or to, officers, directors, employees or consultants of the Company or any of its Restricted Subsidiaries, (ii) income (loss) attributable to deferred compensation plans or trusts, and (iii) any expense in respect of payments made to option holders or holders of profits interests of the Company in connection with, or as a result of, any distribution being made to equityholders of the Company, which payments are being made to compensate such option holders or holders of profits interests as though they were equityholders at the time of, and entitled to share in, such distribution (to the extent such distribution to equityholders is excluded from Consolidated Net Income), shall be excluded;

(10) any fees and expenses (including any commissions or discounts) incurred during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, Asset Sale, disposition, Change of Control, issuance, incurrence, redemption, defeasance, repurchase, or repayment of Indebtedness (including such fees, expenses or charges related to the offering and issuance of the Notes and other securities and the syndication and incurrence of any Credit Facilities), issuance of Equity Interests, refinancing transaction or amendment, supplement or modification of any debt instrument (in each case, including any such transaction consummated prior to the Issue Date and any such transaction undertaken but not completed and/or not successful) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction shall be excluded;

(11) accruals and reserves that are established within twelve months after the closing of any acquisition in accordance with GAAP or changes as a result of the adoption or modification of accounting policies during such period, whether effected through a cumulative effect adjustment, restatement or a retroactive application in accordance with GAAP shall be excluded;

(12) the effects from applying purchase accounting, including applying recapitalization or purchase accounting to inventory, property and equipment, software, goodwill and other intangible assets, in-process research and development, post-employment benefits, deferred revenue and debt-like items required or permitted by GAAP (including the effects of such adjustments pushed down to the Company and the Restricted Subsidiaries), as a result of any consummated acquisitions, or the amortization or write-off of any amounts thereof, shall be excluded;

(13) any foreign exchange gains or losses resulting from the impact of foreign currency changes on the valuation of assets and liabilities on the consolidated balance sheet of the Company shall be excluded;

(14) the amount of any cash tax benefits related to the tax amortization of intangible assets in such period shall be included;

(15) amounts paid or reserved in connection with earn-out, non-compete and contingent consideration obligations (including to the extent accounted for as bonuses or otherwise) and adjustments thereof and purchase price adjustments in connection with any acquisition of a business or Person shall be excluded;

(16) proceeds received from business interruption insurance (to the extent not reflected as revenue or income in Net Income and to the extent that the related loss was deducted in the determination of Net Income), shall be included;

(17) charges, losses, lost profits, expenses or write-offs to the extent indemnified, reimbursed or insured by a third party, in each case, to the extent that indemnification, reimbursement or insurance coverage has not been denied, the Company in good faith believes that such amounts are recoverable from such indemnitors, reimbursers or insurers, and so long as such amounts are actually reimbursed to the Company and the Restricted Subsidiaries in cash within 365 days after the related amount is first added to Consolidated Net Income pursuant to this clause (17) (and if not so reimbursed within 365 days, such amount shall be deducted from Consolidated Net Income during the next measurement period), shall be excluded;

(18) any non-cash expenses, accruals, reserves or income related to adjustments to historical tax exposures shall be excluded; provided that if any such non-cash items represent an accrual or reserve for cash payments in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated Net Income in such future period, but only to the extent of such non-cash expense, accrual or reserve excluded pursuant to this clause (18) shall be excluded;



(19) any non-cash gain or loss attributable to the mark-to-market movement in the valuation of Hedging Obligations (to the extent the cash impact resulting from such gain or loss has not been realized) or other derivative instruments pursuant to Financial Accounting Standards Board Accounting Standards Codification 815 (Derivatives and Hedging), shall be excluded; and

(20) any gain or loss relating to Hedging Obligations associated with transactions realized in the current period that has been reflected in Net Income in prior periods and excluded from or included in, as applicable, Consolidated Net Income pursuant to the preceding clause (19) shall be included.

Notwithstanding the foregoing, for the purpose of Section 4.07 only (other than clause (3)(d) of Section 4.07(a)), there shall be excluded from Consolidated Net Income any income arising from any sale or other disposition of Restricted Investments made by the Company and the Restricted Subsidiaries, any repurchases and redemptions of Restricted Investments from the Company and the Restricted Subsidiaries, any repayments of loans and advances which constitute Restricted Investments by the Company or any of the Restricted Subsidiaries, any sale of the stock of an Unrestricted Subsidiary, any distribution or dividend from an Unrestricted Subsidiary or the sale or transfer of assets from an Unrestricted Subsidiary to the Company or a Restricted Subsidiary, in each case only to the extent such amounts increase the amount of Restricted Payments permitted under clause (3)(d) of Section 4.07(a).

“Consolidated Secured Debt Ratio” as of any date of determination means, the ratio of (1) Consolidated Total Indebtedness of the Company and its Restricted Subsidiaries (other than Hedging Obligations) that is secured by Liens on any assets or property of the Company and its Restricted Subsidiaries, as of the end of the most recent Test Period immediately preceding the date on which such event for which such calculation is being made shall occur to (2) the Consolidated EBITDA of the Company and its Restricted Subsidiaries for the most recently ended Test Period immediately preceding the date on which such event for which such calculation is being made shall occur, in each case with such pro forma adjustments to Consolidated Total Indebtedness (including as to the incurrence, retirement or extinguishment of Indebtedness and the treatment of revolving credit facilities) and Consolidated EBITDA as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio.

“Consolidated Total Assets” means the total assets of the Company and the Restricted Subsidiaries on a consolidated basis, determined on a consolidated basis in accordance with GAAP.

“Consolidated Total Debt Ratio” as of any date of determination means, the ratio of (1) Consolidated Total Indebtedness of the Company and its Restricted Subsidiaries (other than Hedging Obligations) as of the end of the most recent Test Period immediately preceding the date on which such event for which such calculation is being made to (2) the Consolidated EBITDA of the Company and its Restricted Subsidiaries for the most recently ended Test Period immediately preceding the date on which such event for which such calculation is being made shall occur, in each case with such pro forma adjustments to Consolidated Total Indebtedness (including as to the incurrence, retirement or extinguishment of Indebtedness and the treatment of revolving credit facilities) and Consolidated EBITDA as are appropriate and consistent with the pro forma adjustment provisions set forth in the definition of Fixed Charge Coverage Ratio.

“Consolidated Total Indebtedness” means, as at any date of determination, an amount equal to the sum of (1) the aggregate amount of all outstanding Indebtedness of the Company and the Restricted Subsidiaries on a consolidated basis consisting of Indebtedness for borrowed money, Obligations in respect of Capitalized Lease Obligations and debt obligations evidenced by promissory notes and similar instruments plus, to the extent not otherwise included therein, the aggregate undrawn amount of outstanding Designated Revolving Commitments (as defined within the definition of Fixed Charge Coverage Ratio) with respect to any revolving credit Indebtedness that the Company has made an election to include in any pro forma calculation as provided in the definition of Fixed Charge Coverage Ratio, plus (2) the aggregate amount of all outstanding Disqualified Stock of the Company and its Restricted Subsidiaries and all Preferred Stock of its Restricted Subsidiaries on a consolidated basis, with the amount of such Disqualified Stock and Preferred Stock equal to the greater of their respective voluntary or involuntary liquidation preferences and maximum fixed repurchase prices, in the case of clauses (1) and (2) above, determined on a consolidated basis in accordance with GAAP and excluding for the avoidance of doubt all undrawn amounts under revolving credit facilities (except the Designated Revolving Commitments to the extent included pursuant to clause (1) above) and letters of credit, and all obligations relating to any Receivables Facility, minus (3) all unrestricted cash and Cash Equivalents of the Company and its Restricted Subsidiaries, in each case determined on a consolidated basis in accordance with GAAP; provided that Consolidated Total Indebtedness shall not include Indebtedness in respect of (A) any letter of credit, bank guarantees and performance or similar bonds, except to the extent of obligations in respect of drawn letters of credit which have not been reimbursed within five Business Days and (B) Hedging Obligations. The U.S. Dollar Equivalent principal amount of any Indebtedness denominated in a foreign currency will reflect the currency translation effects, determined in accordance with GAAP, of Hedging Obligations for currency exchange risks with respect to the applicable currency in effect on the date of determination of the U.S. Dollar Equivalent principal amount of such Indebtedness. For purposes hereof, the “maximum fixed repurchase price” of any Disqualified Stock or Preferred Stock that does not have a fixed repurchase price shall be calculated in accordance with the terms of such Disqualified Stock or Preferred Stock as if such Disqualified Stock or Preferred Stock were purchased on any date on which Consolidated Total Indebtedness shall be required to be determined pursuant to this Indenture, and if such price is based upon, or measured by, the fair market value of such Disqualified Stock or Preferred Stock, such fair market value shall be determined reasonably and in good faith by the Company.

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness (“primary obligations”) of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent:

- (1) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

- (2) to advance or supply funds:
- (a) for the purchase or payment of any such primary obligation; or
  - (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or
- (3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Corporate Trust Office of the Trustee” shall be at the address of the Trustee specified in Section 12.01 or such other address as to which the Trustee may designate from time to time by notice to the Holders and the Company.

“Credit Facilities” means, with respect to the Company or any of the Restricted Subsidiaries, one or more debt facilities, including the Senior Credit Agreement, or other financing arrangements (including, without limitation, commercial paper facilities, note purchase agreements, agreements or indentures) providing for revolving credit loans, term loans, letters of credit, bank guarantees, notes, debt securities or other indebtedness, including any notes, mortgages, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, supplements, modifications, extensions, renewals, restatements or refundings thereof, in whole or in part, and any indentures, credit facilities, commercial paper facilities, debt facilities, debt securities, note purchase agreements, agreements or other financing arrangements that exchange, replace, refund, refinance, extend, renew, restate, amend, supplement or modify any part of the loans, notes, credit facilities, debt securities, commitments or other obligations thereunder, including any such exchange, replacement, refunding, refinancing, extended, renewed, restated, amended, supplemented or modified facility, indenture, note purchase agreement, agreement or arrangement that increases the amount permitted to be borrowed or issued thereunder or alters the maturity thereof (provided that such increase in borrowings or issuances is permitted under Section 4.09) or adds Restricted Subsidiaries as additional borrowers or guarantors thereunder and whether by the same or any other agent, trustee, lender or group of lenders, purchasers or other holders, initial purchasers or underwriters.

“Custodian” means the Trustee, as custodian with respect to the Notes or any successor entity thereto.

“Default” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

“Definitive Note” means a certificated Note registered in the name of the Holder thereof and issued in accordance with Section 2.06(c), substantially in the form of Exhibit A except that such Note shall not bear the Global Note Legend and shall not have the “Schedule of Exchanges of Interests in the Global Note” attached thereto.

“Depository” means, with respect to the Global Notes, the Person specified in Section 2.03 as the Depository with respect to the Notes, and any and all successors thereto appointed as Depository hereunder and having become such pursuant to the applicable provision of this Indenture.

“Designated Non-cash Consideration” means the fair market value of consideration that is not deemed to be Cash Equivalents and that is received by the Company or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, executed by the principal financial officer of the Company, less the amount of cash or Cash Equivalents received in connection with a subsequent sale of or collection on such Designated Non-cash Consideration.

“Designated Preferred Stock” means Preferred Stock of the Company or any Parent Entity (in each case other than Disqualified Stock) that is issued for cash (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate executed by the principal financial officer of the Company or the applicable Parent Entity, as the case may be, on the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in clause (3) of Section 4.07(a).

“Disqualified Stock” means, with respect to any Person, any Capital Stock of such Person which, by its terms, or by the terms of any security into which it is convertible or for which it is putable or exchangeable, or upon the happening of any event or condition, (a) matures or is mandatorily redeemable (other than solely for Capital Stock of such Person that would not otherwise constitute Disqualified Stock) pursuant to a sinking fund obligation or otherwise, other than solely as a result of a change of control, asset sale event or casualty or condemnation event or (b) is redeemable at the option of the holder thereof (other than solely for Capital Stock of such Person that would not otherwise constitute Disqualified Stock) other than solely as a result of a change of control, asset sale or casualty or condemnation event, in whole or in part, in each case prior to the date 91 days after the earlier of the maturity date of the Notes or the date the Notes are no longer outstanding; provided, however, that if such Capital Stock is issued to any plan for the benefit of employees of the Company or their respective Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Company or its respective Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

“Domestic Subsidiary” means any Restricted Subsidiary that is organized or existing under the laws of the United States, any state thereof or the District of Columbia.

“EMU” means economic and monetary union as contemplated in the Treaty on European Union.

“Equity Interests” means Capital Stock and all warrants, options or other rights to acquire Capital Stock, but excluding any debt security that is convertible into, or exchangeable for, Capital Stock.

“Equity Offering” means any public or private sale of common equity or Preferred Stock of the Company or any Parent Entity (excluding Disqualified Stock), other than:

- (1) public offerings with respect to the Company’s or any Parent Entity’s common stock registered on Form S-8;

- (2) issuances to any Subsidiary of the Company; and
- (3) any such public or private sale that constitutes an Excluded Contribution.

“Escrowed Proceeds” means (1) the proceeds from the offering of any debt securities or other Indebtedness paid into an escrow account with an independent escrow agent on the date of the applicable offering or incurrence, (2) any additional funds deposited from time to time to fund interest, any mandatory redemption or sinking fund payments and any other amounts on, or with respect to, such debt securities or other Indebtedness, (3) any investments in such escrow account and the proceeds thereof and (4) all interest or other income earned on the amounts held in escrow or from such investments, in each case, pursuant to escrow arrangements that permit the release of amounts on deposit in such escrow account upon satisfaction of certain conditions or the occurrence of certain events.

“euro” means the single currency of participating member states of the EMU.

“Euroclear” means Euroclear Bank S.A./N.V., as operator of the Euroclear system or any successor securities clearing agency.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Excluded Contribution” means net cash proceeds, the fair market value of marketable securities or Qualified Proceeds received by the Company from:

- (1) contributions to its common equity capital, and
- (2) the sale (other than to a Subsidiary of the Company or to any management equity plan or stock option plan or any other management or employee benefit plan or agreement of the Company) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock) of the Company,

in each case designated as Excluded Contributions pursuant to an Officer’s Certificate of the Company on the date such capital contributions are made or the date such Equity Interests are sold, as the case may be, which are excluded from the calculation set forth in clause (3) of Section 4.07(a).

“fair market value” means, with respect to any asset or liability, the fair market value of such asset or liability as determined by the Company in good faith.

“Fixed Charge Coverage Ratio” means, with respect to any Person for any Test Period, the ratio of Consolidated EBITDA of such Person for such Test Period to the Fixed Charges of such Person for such Test Period. In the event that the Company or any Restricted Subsidiary incurs, assumes, guarantees, repays, retires or extinguishes any Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility

unless such Indebtedness has been permanently repaid and has not been replaced) or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to or simultaneously with the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “Fixed Charge Coverage Ratio Calculation Date”), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, assumption, guarantee, redemption, repayment, retirement or extinguishment of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable Test Period; provided that (A) whenever pro forma effect is to be given to the incurrence of revolving credit Indebtedness under Section 4.09(a) or clause (1) of Section 4.09(b), the pro forma calculation may, at the Company’s election, be determined by treating the maximum committed amount of such revolving credit Indebtedness (such maximum committed amount, the “Designated Revolving Commitments”) as having been incurred on the date of such calculation, whether or not such amount has actually been drawn upon, and, if such election has been made, (i) subsequent borrowings and reborrowings of such revolving credit Indebtedness, up to the maximum committed amount, shall not be deemed additional incurrences of Indebtedness requiring calculations under this definition or under Section 4.09(a) or clause (1) of Section 4.09(b) (but subsequent borrowings in connection with increases in such maximum committed amount shall require calculations under this definition and Section 4.09(a) or clause (1) of Section 4.09(b), as applicable, or shall otherwise comply with Section 4.09) and (ii) for purposes of subsequent calculations under this definition or under Section 4.09(a) or clause (1) of Section 4.09(b), the aggregate undrawn amount of outstanding Designated Revolving Commitments on the date of any such calculation shall be deemed to be outstanding throughout such period and (B) whenever pro forma effect is to be given to the incurrence of Indebtedness (other than pursuant to clause (A) of this proviso), Disqualified Stock or Preferred Stock (or any portion thereof), any Lien or other transaction being undertaken in reliance on a ratio basket based on the Fixed Charge Coverage Ratio, the Fixed Charge Coverage Ratio shall be calculated without regard to the incurrence of up to \$100,000,000 of any Indebtedness under any revolving credit facility substantially concurrently therewith.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, consolidations and disposed operations (as determined in accordance with GAAP) and operational changes that have been made by the Company or any of the Restricted Subsidiaries during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Fixed Charge Coverage Ratio Calculation Date (each, for purposes of this definition, a “pro forma event”) shall be calculated on a pro forma basis assuming that all such pro forma events (and the change in any associated fixed charge obligations and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any of the Restricted Subsidiaries since the beginning of such period shall have made any Investment, acquisition, disposition, merger, consolidation, disposed operation or operational change that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such period as if such Investment, acquisition, disposition, merger, consolidation, disposed operation or operational change had occurred at the beginning of the applicable four-quarter period; provided that, for the avoidance of doubt, notwithstanding any classification under GAAP of any Person

or business in respect of which a definitive agreement for the disposition has been entered into as discontinued operations, the Consolidated EBITDA of such Person or business shall not be excluded pursuant to this paragraph until such disposition shall have been consummated.

For purposes of this definition, whenever pro forma effect is to be given to a pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Company, and may include, for the avoidance of doubt, pro forma “run rate” cost savings, operating expense reductions, and other synergies related to the pro forma event, projected by the Company in good faith to result from actions that have been taken, actions with respect to which substantial steps have been taken or actions that are expected to be taken (in each case, in the good faith determination of the Company), in any such case, within eight full fiscal quarters after the date of such pro forma event; provided that, for the purpose of this paragraph, (A) any such adjustments shall be calculated on a pro forma basis as though such adjustments had been realized on the first day of the relevant four-quarter period, and shall be calculated net of the amount of actual benefits realized from such actions, (B) any such adjustments shall be reasonably identifiable and (C) “run rate” shall mean the full recurring benefit that is associated with any such action.

If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Coverage Ratio Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). To the extent interest expense generated by Hedging Obligations that have been terminated prior to the Fixed Charge Coverage Ratio Calculation Date is included in Consolidated Interest Expense, Consolidated Interest Expense shall be adjusted to exclude such expense. Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate. Any such pro forma calculation may include, without limitation, adjustments calculated in accordance with Regulation S-X under the Securities Act.

“Fixed Charges” means, with respect to any Person for any period, the sum (without duplication) of:

- (1) Consolidated Interest Expense of such Person for such period;
- (2) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock during such period; and

(3) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Stock during such period.

“Foreign Subsidiary” means, with respect to any Person, any Restricted Subsidiary of such Person that is not a Domestic Subsidiary and any Restricted Subsidiary of such Foreign Subsidiary.

“Fort Mill Real Property Liabilities” means all obligations and liabilities incurred by the Company or any of its Restricted Subsidiaries in connection with, or in respect of (a) the construction of the office space on the Fort Mill Regional Campus and (b) any lease of such office space by the Company or any of its Restricted Subsidiaries.

“Fort Mill Regional Campus” means the office space in Fort Mill, South Carolina.

“GAAP” means (1) generally accepted accounting principles in the United States as in effect on the date of any calculation or determination required hereunder or (2) if elected by the Company by written notice to the Trustee in connection with the delivery of financial statements and information, the accounting standards and interpretations (“IFRS”) adopted by the International Accounting Standard Board, as in effect on the first date of the period for which the Company is making such election; provided that (a) any such election once made shall be irrevocable, (b) all financial statements and reports required to be provided after such election pursuant to this Indenture shall be prepared on the basis of IFRS, (c) from and after such election, all ratios, computations and other determinations based on GAAP contained in this Indenture shall be computed in conformity with IFRS, and (d) in connection with the delivery of financial statements (x) for any of its first three financial quarters of any financial year, it shall restate its consolidated interim financial statements for such interim financial period and the comparable period in the prior year to the extent previously prepared in accordance with GAAP and (y) for delivery of audited financial information, it shall provide consolidated historical financial statements prepared in accordance with IFRS for the prior most recent fiscal year to the extent previously prepared in accordance with GAAP. Notwithstanding the foregoing, all ratios, baskets and calculations based on GAAP or terms determined in accordance with GAAP in this Indenture shall be computed in accordance with GAAP as in effect on the Issue Date (or IFRS as of the date of such election above) or, if elected by the Company by written notice to the Trustee on one or more occasions after the Issue Date, GAAP (or IFRS) as in effect on the date of such notice and any such election shall be irrevocable. For the avoidance of doubt, solely making an election (without any other action) referred to in this definition will not be treated as an incurrence of Indebtedness.

“Global Note Legend” means the legend set forth in Section 2.06(g)(ii), which is required to be placed on all Global Notes issued under this Indenture.

“Global Notes” means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes, substantially in the form of Exhibit A, issued in accordance with Section 2.01, 2.06(b) or 2.06(d).



“Government Securities” means securities that are:

- (1) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged; or
- (2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America,

which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such Government Securities or a specific payment of principal of or interest on any such Government Securities held by such custodian for the account of the holder of such depository receipt; provided that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the Government Securities or the specific payment of principal of or interest on the Government Securities evidenced by such depository receipt.

“guarantee” means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other obligations.

“Guarantee” means the guarantee by any Guarantor of the Company’s Obligations under this Indenture and the Notes.

“Guarantor” means each Subsidiary of the Company that executes this Indenture as a Guarantor on the Issue Date and each other Subsidiary of the Company that thereafter guarantees the Notes in accordance with the terms of this Indenture.

“Hedging Agreement” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under any Hedging Agreements.

“holder” means, with reference to any Indebtedness or other Obligations, any holder or lender of, or trustee or collateral agent or other authorized representative with respect to, such Indebtedness or Obligations, and, in the case of Hedging Obligations, any counterparty to such Hedging Obligations.

“Holder” means the Person in whose name a Note is registered on the Registrar’s books.

“IFRS” has the meaning specified in the definition of “GAAP”.

“Immediate Family Members” means with respect to any individual, such individual’s estate, heirs, legatees, distributees, child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law (including adoptive relationships), any person sharing the individual’s household (other than a tenant or employee) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

“Indebtedness” means, with respect to any Person, without duplication:

- (1) any indebtedness (including principal and premium) of such Person, whether or not contingent:
  - (a) in respect of borrowed money;
  - (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit or bankers’ acceptances (or, without duplication, reimbursement agreements in respect thereof);
  - (c) representing the balance deferred and unpaid of the purchase price of any property (including Capitalized Lease Obligations), except (i) any such balance that constitutes a trade payable or similar obligation to a trade creditor, in each case accrued in the ordinary course of business and (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and is not paid after becoming due and payable; or
  - (d) representing any net Hedging Obligations;

if and to the extent that any of the foregoing indebtedness in clauses (a) through (d) (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP; provided that Indebtedness of any Parent Entity appearing upon the balance sheet of the Company solely by reason of push-down accounting under GAAP shall be excluded;

(2) to the extent not otherwise included, any obligation by such Person to be liable for, or to pay, as obligor, guarantor or otherwise, on the obligations of the type referred to in clause (1) of a third Person (whether or not such items would appear upon the balance sheet of such obligor or guarantor), other than by endorsement of negotiable instruments for collection in the ordinary course of business; and

(3) to the extent not otherwise included, the obligations of the type referred to in clause (1) of a third Person secured by a Lien on any asset owned by such first Person, whether or not such Indebtedness is assumed by such first Person; provided, however, that the amount of such Indebtedness will be the lesser of: (a) the fair market value of such assets at such date of determination, (b) the amount of such Indebtedness of such other Person and (c) the maximum amount of such Indebtedness for which such Person could be liable;

provided, however, that notwithstanding the foregoing, Indebtedness shall be deemed not to include (a) Contingent Obligations incurred in the ordinary course of business, (b) obligations under a Receivables Facility, straight line leases, operating leases or Sale and Lease Back Transactions (except any resulting Capitalized Lease Obligations) or (c) the Fort Mill Real Property Liabilities; provided further that Indebtedness shall be calculated without giving effect to the effects of Financial Accounting Standards Board Accounting Standards Codification Topic No. 815 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Indenture as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

“Indenture” means this Indenture, as amended, supplemented or otherwise modified from time to time.

“Independent Financial Advisor” means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Company, qualified to perform the task for which it has been engaged.

“Indirect Participant” means a Person who holds a beneficial interest in a Global Note through a Participant.

“Initial Notes” has the meaning set forth in the recitals to this Indenture.

“Initial Purchasers” means Morgan Stanley & Co. LLC, J.P. Morgan Securities LLC, Goldman, Sachs & Co., Wells Fargo Securities, LLC, Citigroup Global Markets Inc., Citizens Capital Markets, Inc., Credit Suisse Securities (USA) LLC, Merrill Lynch, Pierce, Fenner & Smith Incorporated and SunTrust Robinson Humphrey, Inc.

“Interest Payment Date” means March 15 and September 15 of each year to stated maturity.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P or an equivalent rating by any other Rating Agency.

“Investment Grade Securities” means

- (1) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents),
- (2) debt securities or debt instruments with an Investment Grade Rating, but excluding any debt securities or instruments constituting loans or advances among the Company and its Subsidiaries,
- (3) investments in any fund that invests at least 95% of its assets in investments of the type described in clauses (1) and (2) of this definition which fund may also hold immaterial amounts of cash pending investment or distribution, and
- (4) corresponding instruments in countries other than the United States customarily utilized for high-quality investments.

“Investments” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, credit card and debit card receivables, trade credit, advances to customers, commission, travel and similar advances to employees, directors, officers, managers, members of management, independent contractors and consultants, in each case made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet (excluding the footnotes) of the Company in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of “Unrestricted Subsidiary” and Section 4.07:

- (1) “Investments” shall include the portion (proportionate to the Company’s equity interest in such Subsidiary) of the fair market value of the net assets of a Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided, however, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to:
  - (a) the Company’s “Investment” in such Subsidiary at the time of such redesignation; less
  - (b) the portion (proportionate to the Company’s equity interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by (i) any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Company or a Restricted Subsidiary in respect of such Investment and (ii) with respect to any loan or advance that by the terms of the original agreement entered into at the time of extension of such loan or advance provides for forgiveness of the obligations thereunder, amounts forgiven in respect of such investment.

“Investors” means TPG Capital L.P. and its Affiliates, but not including, however, any portfolio company thereof.

“Issue Date” means March 10, 2017.

“Issuer Order” means a written request or order signed on behalf of the Company by an Officer of the Company, who must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company, and delivered to the Trustee.

“LCT Test Date” means the date specified in the LCT Election; provided that (a) with respect to any prepayment of Indebtedness or any Restricted Payment, such date shall be the date of the irrevocable prepayment notice and (b) with respect to all other Limited Condition Transactions, such date shall be the date of the definitive agreements for such Limited Condition Transaction.

“Legal Holiday” means a Saturday, a Sunday or a day on which commercial banking institutions are not required to be open in the State of New York.

“Lien” means, with respect to any asset, any mortgage, lien (statutory or otherwise), pledge, hypothecation, charge, security interest, preference, priority or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction; provided that in no event shall an operating lease be deemed to constitute a Lien.

“Limited Condition Transaction” means (1) any Investment or acquisition (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Capital Stock or otherwise) whose consummation is not conditioned on the availability of, or on obtaining, third party financing, (2) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Stock or Preferred Stock requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment and (3) any Restricted Payment requiring irrevocable notice in advance thereof.

“Margin Lines of Credit” means any lines of credit established and used by the Company and its Subsidiaries consistent with ordinary course practice and to fund or support Margin Loans of customers of the Company and its Subsidiaries and any replacement lines established on substantially similar terms and conditions.

“Margin Loans” has the meaning ascribed to it in Regulation T.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

“Net Income” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

“Net Proceeds” means the aggregate cash proceeds and the fair market value of any Cash Equivalents received by the Company or any of the Restricted Subsidiaries in respect of any Asset Sale, including any cash received upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale, net of the direct costs relating to such Asset Sale and the sale or disposition of such Designated Non-cash Consideration, including legal, accounting and investment banking fees, payments made in order to obtain a necessary consent or required by applicable law, and brokerage and sales commissions, all dividends, distributions or other payments required to be made to minority interest holders in Restricted Subsidiaries as a result of any such Asset Sale by a Restricted Subsidiary, the amount of any purchase price or similar adjustment claimed by any Person to be owed by the Company or any Restricted Subsidiary, until such time as such claim shall have been settled or otherwise finally resolved, or paid or payable by the Company or any Restricted Subsidiary, in either case, in respect of such Asset Sale, any relocation expenses incurred as a result thereof, other fees and expenses, including title and recordation expenses, taxes paid or payable (including distributions described in clause 13(b) of Section 4.07(b)) as a result thereof or any transactions occurring or deemed to occur to effectuate a payment pursuant to this Indenture (including taxes that are or would be imposed on the distribution or repatriation of any such Net Proceeds, and after taking into account any available tax credits or deductions and any tax sharing arrangements), amounts required to be applied to the repayment of principal, premium, if any, and interest on Senior Indebtedness or amounts required to be applied to the repayment of Indebtedness of a Restricted Subsidiary required (other than required by clause (1) of Section 4.10(b)) to be paid as a result of such transaction, any costs associated with unwinding any related Hedging Obligations in connection with such transactions and any deduction of appropriate amounts to be provided by the Company or any of the Restricted Subsidiaries as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Company or any of the Restricted Subsidiaries after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction.

“Non-U.S. Person” means a Person who is not a U.S. Person.

“Notes” means the Notes (including the Initial Notes) authenticated and delivered under this Indenture. For all purposes of this Indenture, the term “Notes” shall also include any Additional Notes that are actually issued.

“Notes Documents” means this Indenture and the Notes.

“Obligations” means any principal, interest (including any interest accruing subsequent to the filing of a petition in bankruptcy, reorganization or similar proceeding at the rate provided for in the documentation with respect thereto, whether or not such interest is an allowed claim under applicable state, federal or foreign law), premium, penalties, fees, indemnifications, reimbursements (including reimbursement obligations with respect to letters of credit and bankers’ acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, premium, penalties, fees, indemnifications, reimbursements, damages and other liabilities, payable under the documentation governing any Indebtedness.

“OCC” means the Office of the Comptroller of the Currency.

“OCC-Regulated Subsidiary” means any Subsidiary of the Company that is regulated by the OCC.

“Offering Memorandum” means the offering memorandum, dated March 3, 2017, relating to the sale of the Initial Notes.

“Officer” means the Chief Executive Officer, the Chief Financial Officer, the President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer, the Controller or the Secretary of the Company or any other Person, as the case may be.

“Officer’s Certificate” means a certificate signed on behalf of the Company by an Officer of the Company or on behalf of any other Person, as the case may be, who must be the principal executive officer, the principal financial officer or the principal accounting officer of the Company or such other Person that meets the requirements set forth in this Indenture.

“Opinion of Counsel” means a written opinion (which opinion may be subject to customary assumptions and exclusions) from legal counsel who is reasonably acceptable to the Trustee. The counsel may be an employee of or counsel to the Company.

“Parent Entity” means any Person that is a direct or indirect parent of the Company.

“Participant” means, with respect to the Depository, Euroclear or Clearstream, a Person who has an account with the Depository, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear and Clearstream).

“Permitted Asset Swap” means the concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Company or any of the Restricted Subsidiaries and another Person; provided that any cash or Cash Equivalents received must be applied in accordance with Section 4.10.

“Permitted Investments” means:

- (1) any Investment in the Company or any of the Restricted Subsidiaries;
- (2) any Investment in cash or Cash Equivalents or Investment Grade Securities;
- (3) any Investment by the Company or any of the Restricted Subsidiaries in a Person (including, to the extent constituting an Investment, in assets of a Person that represent substantially all of its assets or a division, business unit or product line) that is engaged in a Similar Business if as a result of such Investment:
  - (a) such Person becomes a Restricted Subsidiary; or
  - (b) such Person, in one transaction or a series of related transactions, is merged, amalgamated or consolidated with or into, or transfers or conveys substantially all of its assets (or such division, business unit or product line) to, or is liquidated into, the Company or a Restricted Subsidiary,and, in each case, any Investment held by such Person; provided that such Investment was not acquired by such Person in contemplation of such acquisition, merger, amalgamation, consolidation or transfer;
- (4) any Investment in securities, including earn-outs, or other assets not constituting cash or Cash Equivalents or Investment Grade Securities and received in connection with an Asset Sale made pursuant to the provisions of Section 4.10 or any other disposition of assets not constituting an Asset Sale;
- (5) any Investment existing on the Issue Date or made pursuant to binding commitments in effect on the Issue Date, or an Investment consisting of any extension, modification, replacement, reinvestment or renewal of any such Investment existing on the Issue Date or binding commitment in effect on the Issue Date; provided that the amount of any such Investment or binding commitment may be increased in such extension, modification, replacement, reinvestment or renewal only (a) as required by the terms of such Investment or binding commitment as in existence on the Issue Date (including as a result of the accrual or accretion of interest or original issue discount or the issuance of pay-in-kind securities) or (b) as otherwise permitted under this Indenture;
- (6) any Investment acquired by the Company or any of the Restricted Subsidiaries:
  - (a) in exchange for any other Investment or accounts receivable, endorsements for collection or deposit held by the Company or any such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable;
  - (b) in satisfaction of judgments against other Persons;



(c) as a result of a foreclosure by the Company or any of the Restricted Subsidiaries with respect to any secured Investment or other transfer of title with respect to any secured Investment in default; or

(d) received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Company or any Restricted Subsidiary, including pursuant to any plan of reorganization or similar arrangement upon bankruptcy or insolvency of any trade creditor or customer, or (B) litigation, arbitration or other disputes with Persons that are not Affiliates;

(7) Hedging Obligations permitted under clause (10)(x) of Section 4.09(b);

(8) any Investment in a Similar Business having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (8) that are at that time outstanding, not to exceed the greater of \$200,000,000 and 36.0% of Consolidated EBITDA at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value); provided, however, that if any Investment pursuant to this clause (8) is made in any Person that is not a Restricted Subsidiary of the Company at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (8);

(9) Investments the payment for which consists of Equity Interests (exclusive of Disqualified Stock) of the Company or any Parent Entity; provided, however, that such Equity Interests will not increase the amount available for Restricted Payments under clause (3) of Section 4.07(a);

(10) guarantees of Indebtedness permitted under Section 4.09, performance guarantees and Contingent Obligations incurred in the ordinary course of business and the creation of Liens on the assets of the Company or any Restricted Subsidiary in compliance with Section 4.12;

(11) any transaction to the extent it constitutes an Investment that is permitted and made in accordance with the provisions of Section 4.11(b) (except transactions described in clauses (2), (4), (7), (10) and (12) of Section 4.11(b));

(12) Investments consisting of extensions of trade credit, purchases and acquisitions of assets (including inventory, supplies, material, equipment or intellectual property), the lease of any asset or the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons, in each case in the ordinary course of business;

(13) additional Investments having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (13) that are at that time outstanding (without giving effect to the sale of an Unrestricted Subsidiary to the extent the proceeds of such sale do not consist of cash or marketable securities), not to exceed

the greater of \$350,000,000 and 64.0% of Consolidated EBITDA at the time of such Investment (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value); provided, however, that if any Investment pursuant to this clause (13) is made in any Person that is not a Restricted Subsidiary of the Company at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (13);

(14) Investments relating to a Receivables Subsidiary that, in the good faith determination of the Company are necessary or advisable to effect any Receivables Facility or any repurchase obligation in connection therewith;

(15) loans and advances to, or guarantees of Indebtedness of, officers, directors, employees, managers, members of management, independent contractors and consultants not in excess of \$30,000,000 in the aggregate at any one time outstanding;

(16) loans and advances to employees, directors, officers, managers, members of management, independent contractors and consultants for business-related travel expenses, moving expenses and other similar expenses or payroll advances, in each case incurred in the ordinary course of business or to fund such Person's purchase of Equity Interests of the Company or any Parent Entity and any taxes resulting from such purchase;

(17) Investments made to acquire, purchase, repurchase, redeem or retire Capital Stock of the Company or any Parent Entity thereof owned by any employee equity ownership plan or key employee ownership plan of the Company or any Parent Entity;

(18) Investments consisting of purchases and acquisitions of assets or services in the ordinary course of business;

(19) repurchases of Notes;

(20) Investments in the ordinary course of business consisting of Uniform Commercial Code (or equivalent statutes) Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers consistent with past practices;

(21) Investments of any OCC-Regulated Subsidiary in the Capital Stock of the Federal Reserve Bank in the district in which such Subsidiary is located in accordance with the provisions of the Federal Reserve Act;

(22) Investments of assets related to non-qualified deferred payment plans;

(23) [Reserved];

- (24) Investments consisting of earnest money deposits required in connection with a purchase agreement or other acquisition;
- (25) Investments consisting of loans and advances to any Parent Entity in connection with the reimbursement of expenses incurred on behalf of the Company and its Restricted Subsidiaries in the ordinary course of business;
- (26) contributions in connection with compensation arrangements to a “rabbi” trust for the benefit of employees, directors or other grantor trust subject to claims of creditors in the case of a bankruptcy of the Company or any of its Restricted Subsidiaries;
- (27) Investments in “seed investment portfolios” for the purpose of testing and determining model portfolios in the ordinary course of business and consistent with past business practice not in excess of, in the aggregate outstanding at any one time, the greater of \$35,000,000 and 6.0% of Consolidated EBITDA;
- (28) Securities Owned (as set forth on the balance sheet of the Broker-Dealer Regulated Subsidiary) for a period no longer than ten (10) Business Days following a securities trade from a customer account and constituting securities transactions entered into by the Broker-Dealer Regulated Subsidiary for the purpose of making adjustments to such Subsidiary’s customer accounts with respect to such securities trade, with the fair market value of all such Securities Owned (as set forth on the balance sheet of the Broker-Dealer Regulated Subsidiary), not to exceed \$20,000,000 in the aggregate at any time outstanding;
- (29) any Investment in Unrestricted Subsidiaries or joint ventures in connection with intercompany cash management arrangements or related activities in the ordinary course of business;
- (30) Investments in Unrestricted Subsidiaries or joint ventures of the Company or any of its Restricted Subsidiaries, taken together with all other Investments made pursuant to this clause (30) that are at the time outstanding, not to exceed the greater of \$200,000,000 and 36.0% of Consolidated EBITDA (in each case, determined on the date such Investment is made, with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value); provided, however, that if any Investment pursuant to this clause (30) is made in any Person that is not a Restricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (30);
- (31) Guarantees by the Company or any Restricted Subsidiary of leases (other than Capitalized Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business;
- (32) Investments by any Captive Insurance Subsidiary made in the ordinary course of its business;

(33) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business;

(34) Investments (x) in an amount not to exceed in the aggregate outstanding at any time the greater of \$400,000,000 and 73.0% of Consolidated EBITDA in respect of (i) loans and advances to financial advisors to assist with the costs (including without limitation forgone revenues and repayment of indebtedness) associated with transitioning such advisors' licenses or businesses to the Company and its Subsidiaries or to platforms utilized by the Company and its Subsidiaries, and for the purchase of other financial advisors' businesses and for incidental and working capital purposes, (ii) guarantees of the obligations of financial advisors by the Company or any Restricted Subsidiary to any Person making loans, mortgages, advances and extensions of credit to such financial advisors, (iii) loans and advances (including Margin Loans) to customers of financial advisors and (iv) loans and advances to vendors, and (y) in an amount not to exceed in the aggregate outstanding at any time the greater of \$150,000,000 and 27.0% of Consolidated EBITDA shall be available for loans and advances to financial advisors in connection with the acquisition by the Company or any Restricted Subsidiary of a Person in a Similar Business to assist with the costs (including without limitation forgone revenue and repayment of indebtedness) associated with transitioning such advisors' licenses or businesses to the Company and its Subsidiaries or to platforms utilized by the Company and its Subsidiaries;

(35) Investments made from casualty insurance proceeds in connection with the replacement, substitution, restoration or repair of assets on account of a Casualty Event;

(36) Investments arising as a result of Permitted Sale and Lease-Back Transaction;

(38) additional Investments; provided that on a pro forma basis after giving effect to such Investments the Consolidated Total Debt Ratio would be equal to or less than 3.25 to 1.00; and

(39) Investments consisting of the purchase or acquisition of securities from customers as a result of legal proceedings or regulatory requirements or settlements in the ordinary course of business.

"Permitted Liens" means, with respect to any Person:

(1) Liens incurred or pledges, deposits or security made in connection with workmen's compensation laws, unemployment insurance, employers' health tax, and other social security laws or similar legislation or other insurance related obligations (including, but not limited to, in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto) or indemnification obligations to (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance, or good faith deposits in connection with bids, tenders, contracts, including government or trade contracts (other

than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety, stay, customs or appeal bonds to which such Person is a party, or deposits as security for contested taxes or import duties or for the payment of rent, performance and return-of-money bonds and other similar obligations (including letters of credit issued in lieu of any such bonds or to support the issuance thereof and including those to secure health, safety and environmental obligations), in each case incurred in the ordinary course of business;

(2) Liens imposed by law or regulation, such as landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's, contractors', suppliers of materials', architects' Liens and other like Liens, in each case for sums not yet overdue for a period of more than 60 days or that are being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP;

(3) Liens for taxes, assessments or other governmental charges (i) that are not yet overdue by more than 30 days, (ii) that are being contested in good faith by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of such Person in accordance with GAAP or (iii) with respect to which the Company determines in good faith that the failure to make payment could not reasonably be expected to have a material adverse effect on the Company or its Restricted Subsidiaries, as a whole;

(4) Liens in favor of the issuers of performance, surety, bid, indemnity, warranty, release, customs, appeal or similar bonds or with respect to other regulatory requirements or letters of credit or bankers' acceptances and completion guarantees provided for, in each case issued pursuant to the request of and for the account of such Person in the ordinary course of its business;

(5) survey exceptions, encumbrances, ground leases, easements or reservations of, or rights of others for, licenses, rights-of-way, servitudes, drains, sewers, exceptions or irregularities in title, encroachments, protrusions or other similar charges, electric lines, telegraph and telephone lines and other similar purposes, or zoning, building code or other restrictions (including minor defects and irregularities in title and similar encumbrances) as to the use of real properties or Liens incidental, to the conduct of the business of such Person or to the ownership of its properties which were not incurred in connection with Indebtedness and which do not in the aggregate materially impair their use in the operation of the business of such Person;

(6) Liens securing Indebtedness permitted to be incurred pursuant to clause (4), (12), (13), (14) or (18) of Section 4.09(b); provided that (a) Liens securing Indebtedness permitted to be incurred pursuant to such clause (4) extend only to the assets purchased, leased, constructed, repaired, expanded, installed or improved (together with any replacements thereof, additions and accessions thereto) with the proceeds of

such Indebtedness, Disqualified Stock or Preferred Stock or that are the subject of the Capitalized Lease Obligation, as applicable, and the proceeds and products thereof; (b) Liens securing Obligations relating to any Indebtedness permitted to be incurred pursuant to clause (13) relate only to Obligations relating to Refinancing Indebtedness that (x) is secured by Liens on the same assets as the assets that secured the Indebtedness being refinanced, plus improvements, accessions, proceeds or dividends or distributions in respect thereof or (y) extends, replaces, refunds, refinances, renews or defeases Indebtedness incurred under clauses (3) (solely to the extent such Indebtedness was secured by a Lien prior to such refinancing), (4) or (12) (solely to the extent such Indebtedness was secured by a Lien prior to such refinancing) of Section 4.09(b), (c) Liens under this clause (6) securing Indebtedness permitted to be incurred pursuant to clause (14) shall only be permitted if such Liens are limited to all or part of the same property or assets, including Capital Stock (plus improvements, accessions, proceeds or dividends or distributions in respect thereof and replacements of any thereof) acquired, or of any Person acquired or merged or consolidated with or into the Company or any Restricted Subsidiary, in any transaction to which such Indebtedness relates and (d) Liens securing Indebtedness permitted to be incurred pursuant to such clause (18) extend only to the assets of Restricted Subsidiaries that are not Guarantors;

(7) Liens existing on the Issue Date;

(8) Liens on property or shares of stock or other assets of a Person at the time such Person becomes a Subsidiary; provided, however, such Liens are not created or incurred in connection with, or in contemplation of, such other Person becoming such a Subsidiary; provided further, however, that such Liens may not extend to any other property owned by the Company or any of the Restricted Subsidiaries (other than after-acquired property that is (a) affixed or incorporated into the property covered by such Lien, (b) after-acquired property subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property (it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and (c) the proceeds and products thereof);

(9) Liens on property or other assets at the time the Company or a Restricted Subsidiary acquired the property or such other assets, including any acquisition by means of a merger, amalgamation or consolidation with or into the Company or any of the Restricted Subsidiaries; provided, however, that such Liens are not created or incurred in connection with, or in contemplation of, such acquisition, merger, amalgamation or consolidation; provided further, however, that the Liens may not extend to any other property owned by the Company or any of the Restricted Subsidiaries;

(10) Liens securing Obligations relating to any Indebtedness or other obligations of a Restricted Subsidiary owing to the Company or a Guarantor permitted to be incurred in accordance with Section 4.09;

(11) Liens securing Hedging Obligations and obligations with respect to Bank Products; provided that with respect to Hedging Obligations relating to Indebtedness, such Indebtedness is permitted under this Indenture;

(12) Liens on specific items of inventory or other goods and proceeds thereof securing such Person's obligations in respect of bankers' acceptances or trade letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(13) leases, subleases, licenses or sublicenses (including of intellectual property) granted to others in the ordinary course of business which do not materially interfere with the ordinary conduct of the business of the Company or any of the Restricted Subsidiaries and do not secure any Indebtedness;

(14) Liens arising from Uniform Commercial Code (or equivalent statute) financing statement, or other applicable personal property security registry financing statements or similar filings regarding operating leases or consignments entered into by the Company and the Restricted Subsidiaries in the ordinary course of business;

(15) Liens in favor of the Company or any Guarantor;

(16) Liens on vehicles or equipment of the Company or any of the Restricted Subsidiaries granted in the ordinary course of business;

(17) Liens on accounts receivable and related assets incurred in connection with a Receivables Facility;

(18) Liens to secure any modification, refinancing, refunding, extension, renewal or replacement (or successive refinancing, refunding, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in the foregoing clauses (6), (7), (8), (9), this clause (18) and clause (41); provided, however, that (a) such new Lien shall be limited to all or part of the same property that secured the original Lien (plus accessions, additions and improvements on such property, including after-acquired property that is (i) affixed or incorporated into the property covered by such Lien, (ii) after-acquired property subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property (it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and (iii) the proceeds and products thereof) and (b) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (x) the outstanding principal amount or, if greater, committed amount of the Indebtedness described under clauses (6), (7), (8), (9), this clause (18) and clause (41) at the time the original Lien became a Permitted Lien under this Indenture, and (y) an amount necessary to pay any fees and expenses (including original issue discount, upfront fees or similar fees) and premiums (including tender premiums), penalties or similar amounts and accrued and unpaid interest, related to such modification, refinancing, refunding, extension, renewal or replacement;

- (19) deposits made or other security provided in the ordinary course of business to secure liability to insurance carriers;
- (20) other Liens securing Indebtedness which Indebtedness does not exceed at any one time outstanding the greater of \$200,000,000 and 36.0% of Consolidated EBITDA at the time of any incurrence of such Indebtedness;
- (21) Liens securing judgments, decrees or awards for the payment of money not constituting an Event of Default under clause (5) under Section 6.01(a);
- (22) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;
- (23) Liens (a) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (b) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business, and (c) in favor of banking institutions arising as a matter of law encumbering deposits (including the right of set-off) and which are within the general parameters customary in the banking industry;
- (24) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 4.09; provided that such Liens do not extend to any assets other than those that are the subject of such repurchase agreement;
- (25) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;
- (26) Liens that are contractual rights of set-off (a) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (b) relating to pooled deposit or sweep accounts of the Company or any of the Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Company and the Restricted Subsidiaries or (c) relating to purchase orders and other agreements entered into with customers of the Company or any of the Restricted Subsidiaries in the ordinary course of business;
- (27) Liens securing Obligations permitted to be incurred under Credit Facilities, including any letter of credit facility relating thereto, that was permitted by the terms of this Indenture to be incurred pursuant to clause (1) of Section 4.09(b);
- (28) Liens securing Obligations owed by the Company or any Restricted Subsidiary to any lender, agent or arranger under the Credit Facilities or any Affiliate of such a lender, agent or arranger in respect of any Hedging Obligations or Bank Products;
- (29) any encumbrance or restriction (including put and call arrangements) with respect to capital stock of any joint venture or similar arrangement pursuant to any joint venture or similar agreement;



- (30) Liens solely on any earnest money deposits of cash or Cash Equivalents made by the Company or any of the Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted under this Indenture;
- (31) Liens on Capital Stock of an Unrestricted Subsidiary that secure Indebtedness or other obligations of such Unrestricted Subsidiary;
- (32) Liens arising out of conditional sale, title retention, consignment or similar arrangements with vendors for the sale or purchase of goods entered into by the Company or any Restricted Subsidiary in the ordinary course of business;
- (33) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;
- (34) Liens (a) securing Indebtedness under any Margin Lines of Credit or (b) arising in connection with securities lending arrangements entered into in the ordinary course of business;
- (35) any Lien, interest or title in favor of a lessor, sublessor or licensor or sublicensor, or secured by such lessor's, sublessor's, licensor's or sublicensor's interest (other than in respect of a Capitalized Lease Obligation);
- (36) all rights of expropriation, access or use or other similar right conferred by or reserved by any federal, state or municipal authority or agency;
- (37) Liens (i) on advances of cash or Cash Equivalents in favor of the seller of any property to be acquired in an Investment permitted under this Indenture to be applied against the purchase price for such Investment, or (ii) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in a transaction permitted under Section 4.10, in each case, solely to the extent such Investment or sale, disposition, transfer or lease, as the case may be, would have been permitted on the date of the creation of such Lien;
- (38) Liens in connection with a Permitted Sale and Lease-Back Transaction;
- (39) Liens on cash and Cash Equivalents used to satisfy or discharge Indebtedness in favor of the holders, trustee, agent or other representative for the holders of such Indebtedness; provided that such satisfaction and discharge is permitted hereunder;
- (40) Liens given to a public utility or any municipality or governmental or other public authority when required by such utility or other authority in connection with the ordinary conduct of the business of the Company or any Restricted Subsidiary; provided that such liens do not materially interfere with the ordinary conduct of the business of the Company and its Restricted Subsidiaries, taken as a whole;
- (41) Liens securing Obligations in respect of Indebtedness permitted to be incurred pursuant to Section 4.09; provided, however, that, at the time of incurrence of such Indebtedness secured under this clause (41) and after giving pro forma effect thereto, the Consolidated Secured Debt Ratio would be no greater than 4.00 to 1.00;

(42) Liens on cash and Cash Equivalents that are earmarked to be used to defease, redeem, satisfy or discharge Indebtedness; provided that (a) such cash and/or Cash Equivalents are deposited into an account from which payment is to be made, directly or indirectly, to the Person or Persons holding the Indebtedness that is to be defeased, redeemed, satisfied or discharged, (b) such Liens extend solely to such cash and/or Cash Equivalents (and any interest or other income thereon) and the account in which such cash and/or Cash Equivalents are deposited and are solely in favor of the Person or Persons holding the Indebtedness (or any agent or trustee for such Person or Persons) that is to be defeased, redeemed, satisfied or discharged and (c) the defeasance, redemption, satisfaction or discharge of such Indebtedness is not prohibited under this Indenture;

(43) Liens on Escrowed Proceeds for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters, trustee, escrow agent or arrangers thereof) or on cash set aside at the time of the incurrence of any Indebtedness or government securities purchased with such cash, in either case to the extent such cash or government securities prefund the payment of interest on such Indebtedness and are held in an escrow account or similar arrangement to be applied for such purpose;

(44) Liens on any funds or securities held in escrow accounts established for the purpose of holding proceeds from issuances of debt securities by the Company or any of its Restricted Subsidiaries issued after the Issue Date, together with any additional funds required in order to fund any mandatory redemption or sinking fund payment on such debt securities within 360 days of their issuance; provided that such Liens do not extend to any assets other than such proceeds and such additional funds; and

(45) Liens in connection with the Fort Mill Real Property Liabilities; provided that such Liens do not at any time extend to or cover any assets other than the Fort Mill Regional Campus (except for accessions and additions to such assets, replacements and products thereof and customary security deposits).

For purposes of determining compliance with this definition, (A) a Lien need not be incurred solely by reference to one category of Permitted Liens described in this definition but are permitted to be incurred in part under any combination thereof and of any other available exemption and, in the event that Lien (or any portion thereof) meets the criteria of one or more of the categories of Permitted Liens, the Company shall, in its sole discretion, classify or reclassify such Lien (or any portion thereof) in any manner that complies with this definition and (B) availability and utilization of any category of financial ratio based exceptions, thresholds and baskets shall first be calculated without giving effect to amounts to be utilized under any other category of exceptions, thresholds and baskets at such time of determination (including at the time of any initial division and classification and any later re-divisions and reclassifications) and thereafter, availability and utilization of any category of exceptions, thresholds and baskets that are not financial ratio based shall be calculated.

For purposes of this definition, the term “Indebtedness” shall be deemed to include interest on such Indebtedness.

“Permitted Sale and Lease-Back Transaction” means any Sale and Lease-Back Transaction that the Company elects, on or prior to the date of closing thereof, to treat as an “Asset Sale.”

“Person” means any individual, corporation, limited liability company, partnership, joint venture, association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

“Preferred Stock” means any Equity Interest with preferential rights of payment of dividends or upon liquidation, dissolution, or winding up.

“Private Placement Legend” means the legend set forth in Section 2.06(g)(i) to be placed on all Notes issued under this Indenture, except where otherwise permitted by the provisions of this Indenture.

“Public Company Costs” means costs relating to compliance with the provisions of the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended, as applicable to companies with equity or debt securities held by the public, the rules of national securities exchange companies with listed equity or debt securities, directors’ compensation, fees and expense reimbursement, costs relating to investor relations, shareholder meetings and reports to shareholders or debtholders, directors’ and officers’ insurance, listing fees and all executive, legal and professional fees related to the foregoing.

“QIB” means a “qualified institutional buyer” as defined in Rule 144A.

“Qualified Proceeds” means assets that are used or useful in, or the fair market value of Capital Stock of any Person engaged in, a Similar Business.

“Rating Agencies” means Moody’s and S&P or if Moody’s or S&P or both shall not make a rating on the Notes publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Company which shall be substituted for Moody’s or S&P or both, as the case may be.

“Receivables Facility” means any of one or more receivables financing facilities as amended, supplemented, modified, extended, renewed, restated or refunded from time to time, the Obligations of which are non-recourse (except for customary representations, warranties, covenants and indemnities made in connection with such facilities) to the Company or any of the Restricted Subsidiaries (other than a Receivables Subsidiary) pursuant to which the Company or any of the Restricted Subsidiaries sells its accounts receivable to either (1) a Person that is not a Restricted Subsidiary or (2) a Restricted Subsidiary or Receivables Subsidiary that in turn funds such purchase by selling its accounts receivable to a Person that is not a Restricted Subsidiary or by borrowing from such a Person or from another Receivables Subsidiary that in turn funds itself by borrowing from such a Person.

“Receivables Fees” means distributions or payments made directly or by means of discounts with respect to any accounts receivable or participation interest therein issued or sold in connection with, and other fees paid to a Person that is not a Restricted Subsidiary in connection with, any Receivables Facility.

“Receivables Subsidiary” means any Subsidiary formed for the purpose of, and that solely engages only in one or more Receivables Facilities and other activities reasonably related thereto.

“Record Date” for the interest, if any, payable on any applicable Interest Payment Date means March 1 or September 1, as applicable (whether or not a Business Day) immediately preceding such Interest Payment Date.

“Regulation S” means Regulation S promulgated under the Securities Act.

“Regulation S Global Note” means a Regulation S Temporary Global Note or Regulation S Permanent Global Note, as applicable.

“Regulation S Permanent Global Note” means a permanent Global Note substantially in the form of Exhibit A bearing the Global Note Legend and the Private Placement Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Regulation S Temporary Global Note upon expiration of the Restricted Period.

“Regulation S Temporary Global Note” means a temporary Global Note substantially in the form of Exhibit A bearing the Global Note Legend, the Private Placement Legend and the Regulation S Temporary Global Note Legend and deposited with or on behalf of and registered in the name of the Depository or its nominee, issued in a denomination equal to the outstanding principal amount of the Notes initially sold in reliance on Rule 903.

“Regulation S Temporary Global Note Legend” means the legend set forth in Section 2.06(g)(iii).

“Regulation T” means Regulation T of the Federal Reserve Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Related Business Assets” means assets (other than cash or Cash Equivalents) used or useful in a Similar Business; provided that any assets received by the Company or a Restricted Subsidiary in exchange for assets transferred by the Company or a Restricted Subsidiary shall not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person would become a Restricted Subsidiary.

“Responsible Officer” means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

“Restricted Definitive Note” means a Definitive Note bearing the Private Placement Legend.

“Restricted Global Note” means a Global Note bearing the Private Placement Legend.

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Period” means, in respect of any Note issued under Regulation S, the 40-day distribution compliance period as defined in Regulation S applicable to such Note.

“Restricted Subsidiary” means, at any time, any direct or indirect Subsidiary of the Company (including any Foreign Subsidiary) that is not then an Unrestricted Subsidiary of the Company; provided, however, that upon the occurrence of an Unrestricted Subsidiary ceasing to be an Unrestricted Subsidiary, such Subsidiary shall be included in the definition of “Restricted Subsidiary.”

“Rule 144” means Rule 144 promulgated under the Securities Act.

“Rule 144A” means Rule 144A promulgated under the Securities Act.

“Rule 903” means Rule 903 promulgated under the Securities Act.

“Rule 904” means Rule 904 promulgated under the Securities Act.

“S&P” means Standard & Poor’s, a division of S&P Global Inc., and any successor to its rating agency business.

“Sale and Lease-Back Transaction” means any arrangement providing for the leasing by the Company or any of the Restricted Subsidiaries of any real or tangible personal property, which property has been or is to be sold or transferred by the Company or such Restricted Subsidiary to a third Person in contemplation of such leasing.

“SEC” means the U.S. Securities and Exchange Commission.

“Secured Indebtedness” means any Indebtedness of the Company or any of the Restricted Subsidiaries secured by a Lien.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder.

“Senior Credit Agreement” means the Credit Facility under the credit agreement originally dated as of March 29, 2012, by and among the Company, as borrower, LPL Financial Holdings Inc. and certain subsidiaries of the Company, as guarantors, the lenders party thereto in their capacities as lenders thereunder and JPMorgan Chase Bank, N.A., as administrative agent

and collateral agent, and the other agents and other parties thereto, as amended by that first amendment and incremental assumption agreement dated as of May 13, 2013, second amendment, extension and incremental assumption agreement dated as of October 1, 2014, third amendment, extension and incremental assumption agreement dated as of November 20, 2015, and as further amended and extended by that fourth amendment agreement to be dated on or about the Issue Date, together with the related documents thereto, including, in each case, any related notes, letters of credit, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any appendices, exhibits, annexes or schedules to any of the foregoing (as the same may be in effect from time to time) and any amendments, supplements, modifications, extensions, renewals, restatements, refundings, exchanges or refinancings thereof (whether with the original agents and lenders or other agents or lenders or otherwise, and whether provided under the original credit agreement or other credit agreements or otherwise) and any indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that replace, refund, exchange or refinance any part of the loans, notes, other credit facilities or commitments thereunder, including any such replacement, refunding, exchange or refinancing facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof (provided that such increase in borrowings is permitted under Section 4.09).

“Senior Indebtedness” means:

(1) all Indebtedness of the Company or any Guarantor outstanding under the Senior Credit Agreement, the Notes and related Guarantees (including interest accruing on or after the filing of any petition in bankruptcy or similar proceeding or for reorganization of the Company or any Guarantor (at the rate provided for in the documentation with respect thereto, regardless of whether or not a claim for post-filing interest is allowed in such proceedings)), and any and all other fees, expense reimbursement obligations, indemnification amounts, penalties, and other amounts (whether existing on the Issue Date or thereafter created or incurred) and all obligations of the Company or any Guarantor to reimburse any bank or other Person in respect of amounts paid under letters of credit, acceptances or other similar instruments;

(2) all (x) Hedging Obligations (and guarantees thereof) and (y) obligations in respect of Bank Products (and guarantees thereof) owing to a Bank Lender or any of its Affiliates (or any Person that was a Bank Lender or an Affiliate of such Bank Lender at the time the applicable agreement giving rise to such Hedging Obligation was entered into); provided that such Hedging Obligations and obligations in respect of Bank Products, as the case may be, are permitted to be incurred under the terms of this Indenture;

(3) any other Indebtedness of the Company or any Guarantor permitted to be incurred under the terms of this Indenture, unless the instrument under which such Indebtedness is incurred expressly provides that it is subordinated in right of payment to the Notes or any related Guarantee; and

(4) all Obligations with respect to the items listed in the preceding clauses (1), (2) and (3);

provided, however, that Senior Indebtedness shall not include:

- (a) any obligation of such Person to the Company or any of its Subsidiaries;
- (b) any liability for federal, state, local or other taxes owed or owing by such Person;
- (c) any accounts payable or other liability to trade creditors arising in the ordinary course of business;
- (d) any Indebtedness or other Obligation of such Person which is subordinate or junior in any respect to any other Indebtedness or other Obligation of such Person; or
- (e) that portion of any Indebtedness which at the time of incurrence is incurred in violation of this Indenture.

“Significant Subsidiary” means any Restricted Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such regulation is in effect on the Issue Date.

“Similar Business” means (1) any business conducted or proposed to be conducted by the Company and the Restricted Subsidiaries on the Issue Date, and any reasonable extension thereof, or (2) any business or other activities that are reasonably similar, ancillary, incidental, complementary or related to, or a reasonable extension, development or expansion of, the businesses in which the Company and its Restricted Subsidiaries are engaged or propose to be engaged on the Issue Date.

“Subordinated Indebtedness” means, with respect to the Notes,

- (1) any Indebtedness of the Company which is by its terms subordinated in right of payment to the Notes, and
- (2) any Indebtedness of any Guarantor which is by its terms subordinated in right of payment to the Guarantee of such entity of the Notes.

“Subsidiary” means, with respect to any Person:

- (1) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof; and
- (2) any partnership, joint venture, limited liability company or similar entity of which

(x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership or otherwise, and

(y) such Person or any Restricted Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Test Period” means, for any determination under this Indenture, the most recent period of four consecutive fiscal quarters of the Company for which internal financial statements are available.

“Treasury Rate” means, as of any Redemption Date, the yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to such Redemption Date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such Redemption Date to March 15, 2020; provided, however, that if the period from such Redemption Date to March 15, 2020, is not equal to the constant maturity of a United States Treasury security for which a weekly average yield is given, the Treasury Rate will be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury securities for which such yields are given, except that if the period from such Redemption Date to March 15, 2020 is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used.

“Trust Indenture Act” means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbb).

“Trustee” means U.S. Bank National Association, a national banking association, as trustee, until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

“Uniform Commercial Code” means the Uniform Commercial Code as in effect in the relevant jurisdiction from time to time. Unless otherwise specified, references to the Uniform Commercial Code herein refer to the New York Uniform Commercial Code.

“Unrestricted Definitive Note” means one or more Definitive Notes that do not bear and are not required to bear the Private Placement Legend.

“Unrestricted Global Note” means a permanent Global Note, substantially in the form of Exhibit A that bears the Global Note Legend and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, and that is deposited with or on behalf of and registered in the name of the Depositary, representing Notes that do not bear the Private Placement Legend.



“Unrestricted Subsidiary” means:

- (1) any Subsidiary of the Company which at the time of determination is an Unrestricted Subsidiary (as designated by the Company, as provided below); and
- (2) any Subsidiary of an Unrestricted Subsidiary.

The Company may designate any Subsidiary of the Company (including any existing Subsidiary and any newly acquired or newly formed Subsidiary) to be an Unrestricted Subsidiary unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Company or any Restricted Subsidiary (other than solely any Subsidiary of the Subsidiary to be so designated); provided that

- (1) such designation complies with Section 4.07; and
- (2) each of:
  - (a) the Subsidiary to be so designated; and
  - (b) its Subsidiaries

has not at the time of designation, and does not thereafter, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable with respect to any Indebtedness pursuant to which the lender has recourse to any of the assets of the Company or any Restricted Subsidiary (other than Equity Interests in the Unrestricted Subsidiary).

The Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that, immediately after giving effect to such designation, no Default shall have occurred and be continuing and either:

- (1) the Company could incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a); or
- (2) the Fixed Charge Coverage Ratio for the Company and its Restricted Subsidiaries would be equal to or greater than such ratio for the Company and its Restricted Subsidiaries immediately prior to such designation, in each case on a pro forma basis taking into account such designation.

Any such designation by the Company shall be notified by the Company to the Trustee by promptly filing with the Trustee a copy of the resolution of the Board of the Company or any committee thereof giving effect to such designation and an Officer’s Certificate certifying that such designation complied with the foregoing provisions.

“U.S. Dollar Equivalent” means, with respect to any monetary amount in a currency other than U.S. dollars, at any time for determination thereof, the amount of U.S. dollars obtained by converting such foreign currency involved in such computation into U.S. dollars at the spot rate for the purchase of U.S. dollars with the applicable foreign currency as published in The Wall Street Journal in the “Exchange Rates” column under the heading “Currency Trading” on the date two Business Days prior to such determination.

“U.S. Person” means a U.S. person as defined in Rule 902(k) under the Securities Act.

“Voting Stock” of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of such Person.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness, Disqualified Stock or Preferred Stock, as the case may be, at any date, the quotient obtained by dividing:

- (1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock multiplied by the amount of such payment; by
- (2) the sum of all such payments.

“Wholly-Owned Domestic Subsidiary” of any Person means a Domestic Subsidiary of such Person that is a Wholly-Owned Subsidiary.

“Wholly-Owned Subsidiary” of any Person means a Subsidiary of such Person, 100% of the outstanding Equity Interests of which (other than directors’ qualifying shares and shares issued to foreign nationals as required by applicable law) shall at the time be owned by such Person and/or by one or more Wholly-Owned Subsidiaries of such Person.

#### Section 1.02 Other Definitions.

| <u>Term</u>                      | <u>Defined in Section</u> |
|----------------------------------|---------------------------|
| “Acceptable Commitment”          | 4.10(b)                   |
| “Advance Portion”                | 4.10(c)                   |
| “Advance Offer”                  | 4.10(c)                   |
| “Affiliate Transaction”          | 4.11(a)                   |
| “Asset Sale Offer”               | 4.10(c)                   |
| “Authentication Order”           | 2.02                      |
| “Change of Control Offer”        | 4.14(a)                   |
| “Change of Control Payment”      | 4.14(a)                   |
| “Change of Control Payment Date” | 4.14(a)(2)                |
| “Covenant Defeasance”            | 8.03                      |
| “DTC”                            | 2.03                      |
| “Event of Default”               | 6.01(a)                   |
| “Excess Proceeds”                | 4.10(c)                   |
| “Excess Proceeds Threshold”      | 4.10(c)                   |
| “incur” and “incurrence”         | 4.09(a)                   |
| “Initial Lien”                   | 4.12                      |
| “Legal Defeasance”               | 8.02                      |

| <u>Term</u>   | <u>Defined in Section</u> |
|---|---------------------------|
| “Market Maker”  | 4.03(b)(ii)               |
| “Note Register”   | 2.03                      |
| “Offer Amount”  | 3.09(b)                   |
| “Offer Period”  | 3.09(b)                   |
| “Pari Passu Indebtedness”                                 | 4.10(c)                   |
| “Paying Agent”  | 2.03                      |
| “Prospective Investor”                                    | 4.03(b)(ii)               |
| “Purchase Date”   | 3.09(b)                   |
| “Redemption Date”   | 3.01                      |
| “refinance,” “refinances,” “refinanced” and “refinancing” | 4.09(b)(13)               |
| “Refinancing Indebtedness”                                | 4.09(b)(13)               |
| “Refunding Capital Stock”                                 | 4.07(b)(2)                |
| “Registrar”   | 2.03                      |
| “Restricted Payments”                                     | 4.07(a)                   |
| “Second Commitment”                                       | 4.10(b)                   |
| “Secured System”  | 4.03(b)(ii)               |
| “Security Analyst”  | 4.03(b)(ii)               |
| “Successor Company”                                       | 5.01(a)(1)                |
| “Successor Person”  | 5.01(c)(1)(A)             |
| “Suspended Covenants”                                     | 4.16(a)                   |
| “Suspension Period”                                       | 4.16(c)                   |
| “Treasury Capital Stock”                                  | 4.07(b)(2)(a)             |

Section 1.03 Rules of Construction.

Unless the context otherwise requires:

- (a) a term has the meaning assigned to it;
- (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (c) “or” is not exclusive;
- (d) words in the singular include the plural, and in the plural include the singular;
- (e) “will” shall be interpreted to express a command;
- (f) provisions apply to successive events and transactions;
- (g) references to sections of, or rules under, the Securities Act or the Exchange Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;

(h) unless the context otherwise requires, any reference to an “Article,” “Section,” “clause” or “Exhibit” refers to an Article, Section, clause or Exhibit, as the case may be, of this Indenture;

(i) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not any particular Article, Section, clause or other subdivision;

(j) “including” means including without limitation; and

(k) in the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including”; the words “to” and “until” each mean “to but excluding”; and the word “through” means “to and including.”

#### Section 1.04 Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing. Except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Proof of execution of any such instrument or of a writing appointing any such agent, or the holding by any Person of a Note, shall be sufficient for any purpose of this Indenture and (subject to Section 7.01) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 1.04.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him or her the execution thereof. Where such execution is by or on behalf of any legal entity other than an individual, such certificate or affidavit shall also constitute proof of the authority of the Person executing the same. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner that the Trustee deems sufficient.

(c) The ownership of Notes shall be proved by the Note Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other action by the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof, in respect of any action taken, suffered or omitted by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Note.

(e) The Company may set a record date for purposes of determining the identity of Holders entitled to give any request, demand, authorization, direction, notice, consent, waiver or take any other act, or to vote or consent to any action by vote or consent authorized or

permitted to be given or taken by Holders. Unless otherwise specified, if not set by the Company prior to the first solicitation of a Holder made by any Person in respect of any such action, or in the case of any such vote, prior to such vote, any such record date shall be the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of Holders furnished to the Trustee prior to such solicitation.

(f) Without limiting the foregoing, a Holder entitled to take any action hereunder with regard to any particular Note may do so with regard to all or any part of the principal amount of such Note or by one or more duly appointed agents, each of which may do so pursuant to such appointment with regard to all or any part of such principal amount. Any notice given or action taken by a Holder or its agents with regard to different parts of such principal amount pursuant to this Section 1.04(f) shall have the same effect as if given or taken by separate Holders of each such different part.

(g) Without limiting the generality of the foregoing, a Holder, including the Depositary which is the Holder of a Global Note, may make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders, and the Depositary may provide its proxy or proxies to the beneficial owners of interests in any such Global Note through such Depositary's standing instructions and customary practices.

(h) The Company may fix a record date for the purpose of determining the Persons who are beneficial owners of interests in any Global Note held by the Depositary entitled under the Applicable Procedures to make, give or take, by a proxy or proxies duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in this Indenture to be made, given or taken by Holders. If such a record date is fixed, the Holders on such record date or their duly appointed proxy or proxies, and only such Persons, shall be entitled to make, give or take such request, demand, authorization, direction, notice, consent, waiver or other action, whether or not such Holders remain Holders after such record date. No such request, demand, authorization, direction, notice, consent, waiver or other action shall be valid or effective if made, given or taken more than 120 days after such record date.

#### Section 1.05 Limited Condition Transactions

Notwithstanding anything to the contrary herein, when (a) calculating any applicable ratio, basket, Consolidated Total Assets, Fixed Charges, Consolidated Net Income or Consolidated EBITDA in connection with the incurrence of Indebtedness, the issuance of Disqualified Stock or Preferred Stock, the creation of Liens, the making of any Asset Sale, the making of an Investment, the making of a Restricted Payment or the designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary or (b) determining compliance with any provision of this Indenture which requires that no Default or Event of Default has occurred, is continuing or would result therefrom, in each case in connection with a Limited Condition Transaction, the date of determination of such ratio, basket or other provisions and determination of whether any Default or Event of Default has occurred, is continuing or would result therefrom shall, at the option of the Company (the Company's election to exercise such option in connection with any Limited Condition Transaction, an "LCT Election"), be the LCT Test Date,

and, if after giving pro forma effect to the Limited Condition Transaction and the other transactions to be entered into in connection therewith as if they had occurred at the beginning of the most recent Test Period ending prior to the LCT Test Date (or, in the case of any incurrence or repayment of Indebtedness (except in the case of the Fixed Charge Coverage Ratio (or similar ratio)), as if incurred (or repaid, as applicable) on the last day of the applicable Test Period), the Company could have consummated such Limited Condition Transaction on the relevant LCT Test Date in compliance with such ratio, basket or other provision, such ratio, basket or other provision shall be deemed to have been complied with; provided that (i) if financial statements for one or more subsequent fiscal quarters shall have become available, the Company may elect, in its sole discretion, to re-determine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of redetermination shall thereafter be deemed to be the applicable LCT Test Date for such ratios, tests or baskets and (ii) such ratios, baskets and other provisions shall not be tested at the time of consummation of such Limited Condition Transaction.

For the avoidance of doubt, if, following the LCT Test Date, any of such ratios, baskets or other provisions are exceeded or breached as a result of fluctuations in such ratio or basket (including due to fluctuations in Consolidated Total Assets, Consolidated EBITDA or other components of such ratio or basket) or other provision at or prior to the consummation of the relevant Limited Condition Transaction, such ratios, baskets and other provisions will be deemed to not have been failed to have been satisfied or exceeded, respectively, as a result of such fluctuations solely for purposes of determining whether the Limited Condition Transaction and related transactions are permitted hereunder. If the Company has made an LCT Election for any Limited Condition Transaction, then in connection with any subsequent calculation of any ratio, basket or other provision on or following the relevant LCT Test Date and prior to the earlier of (i) the date on which such Limited Condition Transaction is consummated or (ii) the date that the definitive agreement for such Limited Condition Transaction is terminated or expires without consummation of such Limited Condition Transaction, any such ratio, basket or other provision shall be calculated on a pro forma basis assuming such Limited Condition Transaction and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated until such time as the applicable Limited Condition Transaction has actually closed or the definitive agreement with respect thereto has been terminated or expired.

## ARTICLE 2

### THE NOTES

#### Section 2.01 Form and Dating; Terms.

(a) General. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A. The Notes may have notations, legends or endorsements required by law, stock exchange rules or usage. Each Note shall be dated the date of its authentication. The Notes shall be issued in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

(b) Global Notes. Notes issued in global form shall be substantially in the form of Exhibit A (including the Global Note Legend thereon and the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Notes issued in definitive form shall be substantially in the form of Exhibit A (but without the Global Note Legend thereon and without the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified in the “Schedule of Exchanges of Interests in the Global Note” attached thereto and each shall provide that it shall represent up to the aggregate principal amount of Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as applicable, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by Section 2.06.

(c) Temporary Global Notes. Notes offered and sold in reliance on Regulation S shall be issued initially in the form of the Regulation S Temporary Global Note, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as Custodian for the Depository, and registered in the name of the Depository or the nominee of the Depository for the accounts of designated agents holding on behalf of Euroclear or Clearstream, duly executed by the Company and authenticated by the Trustee as hereinafter provided.

Following (i) the termination of the Restricted Period and (ii) the receipt by the Trustee of (A) a certification or other evidence in a form reasonably acceptable to the Company of beneficial ownership of 100.0% of the aggregate principal amount of the Regulation S Temporary Global Note by non-U.S. Persons (except to the extent of any beneficial owners thereof who acquired an interest therein during the Restricted Period pursuant to another exemption from registration under the Securities Act and who shall take delivery of a beneficial ownership interest in a 144A Global Note bearing the Private Placement Legend, all as contemplated by Section 2.06(b) hereof) and (B) an Officer’s Certificate from the Company, the Trustee shall remove the Regulation S Temporary Global Note Legend from the Regulation S Temporary Global Note, following which temporary beneficial interests in the Regulation S Temporary Global Note shall automatically become beneficial interests in the Regulation S Permanent Global Note pursuant to the Applicable Procedures.

The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

(d) Terms. The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is unlimited.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Indenture or a supplemental indenture to this Indenture,

expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

The Notes shall be subject to repurchase by the Company pursuant to an Asset Sale Offer as provided in Section 4.10 or a Change of Control Offer as provided in Section 4.14. The Notes shall not be redeemable, other than as provided in Article 3.

Additional Notes ranking pari passu with the Initial Notes may be created and issued from time to time by the Company without notice to or consent of the Holders and shall be consolidated with and form a single class with the Initial Notes and shall have the same terms as to status, redemption or otherwise as the Initial Notes except that interest may accrue on the Additional Notes from their date of issuance (or such other date specified by the Company); provided that the Company's ability to issue Additional Notes shall be subject to the Company's compliance with Section 4.09. Unless the Additional Notes are fungible with the Notes for U.S. federal income tax purposes, the Additional Notes will have a separate CUSIP (or other identifying information).

(e) Euroclear and Clearstream Procedures Applicable. The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream shall be applicable to transfers of beneficial interests in the Regulation S Temporary Global Note and the Regulation S Permanent Global Notes that are held by Participants through Euroclear or Clearstream.

#### Section 2.02 Execution and Authentication.

At least one Officer shall execute the Notes on behalf of the Company by manual, facsimile or electronic (in ".pdf" format) signature.

If an Officer whose signature is on a Note no longer holds that office at the time a Note is authenticated, the Note shall nevertheless be valid.

A Note shall not be entitled to any benefit under this Indenture or be valid or obligatory for any purpose until authenticated substantially in the form of Exhibit A by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been duly authenticated and delivered under this Indenture.

On the Issue Date, the Trustee shall, upon receipt of an Issuer Order (an "Authentication Order"), authenticate and deliver the Initial Notes. In addition, at any time, from time to time, the Trustee shall, upon receipt of an Authentication Order, authenticate and deliver any Additional Notes for an aggregate principal amount specified in such Authentication Order for such Additional Notes issued hereunder.

The Trustee may appoint an authenticating agent acceptable to the Company to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as an Agent to deal with Holders or an Affiliate of the Company.



### Section 2.03 Registrar and Paying Agent.

The Company shall maintain an office or agency where Notes may be presented for registration, transfer or exchange ("Registrar") and an office or agency where Notes may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Notes ("Note Register") reflecting ownership of the Notes outstanding from time to time and of their transfer and exchange. Upon written demand by the Company, the Registrar shall (at the expense of the Company) send a copy of the register reflecting ownership of the Notes outstanding from time to time maintained by it to the Company. The registered Holder will be treated as the owner of the Note for all purposes. Only registered Holders will have rights under this Indenture and the Notes. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent or Registrar without prior notice to any Holder. The Company shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. Either the Company or any of the Company's Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints The Depository Trust Company ("DTC") to act as Depository with respect to the Global Notes.

The Company initially appoints the Trustee to act as the Paying Agent and Registrar for the Notes and to act as Custodian with respect to the Global Notes.

### Section 2.04 Paying Agent to Hold Money in Trust.

The Company shall require each Paying Agent other than the Trustee to agree in writing that the Paying Agent shall hold in trust for the benefit of Holders and the Trustee all money held by the Paying Agent for the payment of principal, premium, if any, or interest on the Notes, and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee for its own benefit and for the benefit of the Holders. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee for its own benefit and for the benefit of the Holders. Upon payment over to the Trustee, the Paying Agent (if other than the Company, a Subsidiary of the Company) shall have no further liability for the money. If the Company or a Subsidiary of the Company acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Paying Agent for the Notes. In the event that the Paying Agent receives funds in advance of the due date, the Paying Agent shall be entitled to invest such funds in the U.S. Bank Money Market Deposit Account, any earnings on which shall be for the account of the Company.

Section 2.05 Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders. If the Trustee is not the Registrar, the Company shall furnish, or cause the Registrar to furnish, to the Trustee at least two Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders.

Section 2.06 Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. Except as otherwise set forth in this Section 2.06, a Global Note may be transferred, in whole and not in part, only to another nominee of the Depositary or to a successor Depositary or a nominee of such successor Depositary. A beneficial interest in a Global Note may not be exchanged for a Definitive Note unless and, if applicable, subject to the limitation on transfer of Definitive Notes set forth in Section 2.06(c) (i) the Depositary (x) notifies the Company that it is unwilling or unable to continue as Depositary for such Global Note or (y) has ceased to be a clearing agency registered under the Exchange Act and, in either case, a successor Depositary is not appointed by the Company within 120 days, (ii) the Company, at its option, notifies the Trustee that it elects to cause the issuance of Definitive Notes or (iii) there shall have occurred and be continuing an Event of Default and the Depositary shall have requested the issuance of Definitive Notes. Upon the occurrence of any of the preceding events in (i), (ii) or (iii) of this Section 2.06(a), Definitive Notes delivered in exchange for any Global Note or beneficial interests therein will be registered in the names, and issued in any approved denominations, requested by or on behalf of the Depositary (in accordance with its customary procedures). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Sections 2.07 and 2.10. Every Note authenticated and delivered in exchange for, or in lieu of, a Global Note or any portion thereof, pursuant to this Section 2.06 or Section 2.07 or 2.10, shall be authenticated and delivered in the form of, and shall be, a Global Note, except for Definitive Notes issued subsequent to any of the preceding events in (i), (ii) or (iii) of this Section 2.06(a) and pursuant to Section 2.06(b)(ii)(B) and Section 2.06(c). A Global Note may not be exchanged for another Note other than as provided in this Section 2.06(a); provided, however, beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.06(b) or (c).

(b) Transfer and Exchange of Beneficial Interests in the Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through the Depositary, in accordance with the provisions of this Indenture and the Applicable Procedures. Beneficial interests in the Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Transfers of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) in this Section 2.06(b), as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in

accordance with the transfer restrictions set forth in the Private Placement Legend; provided, however, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Temporary Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than pursuant to Rule 144A). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes. In connection with all transfers and exchanges of beneficial interests that are not subject to Section 2.06(b)(i), the transferor of such beneficial interest must deliver to the Registrar either (A) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the Applicable Procedures containing information regarding the Participant account to be credited with such increase or (B) (1) a written order from a Participant or an Indirect Participant given to the Depository in accordance with the Applicable Procedures directing the Depository to cause to be issued a Definitive Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given by the Depository to the Registrar containing information regarding the Person in whose name such Definitive Note shall be registered to effect the transfer or exchange referred to in (1) in this Section 2.06(b)(ii)(B); provided that in no event shall Definitive Notes be issued upon the transfer or exchange of beneficial interests in the Regulation S Temporary Global Note prior to (X) the expiration of the Restricted Period and (Y) the receipt by the Registrar of any certificates required pursuant to Rule 903. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note(s) pursuant to Section 2.06(h).

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in any Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Restricted Global Note if the transfer complies with the requirements of Section 2.06(b)(ii) and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in the 144A Global Note, then the transferor must deliver a certificate in the form of Exhibit B, including the certifications in item (1) thereof; or

(B) if the transferee will take delivery in the form of a beneficial interest in the Regulation S Global Note, then the transferor must deliver a certificate in the form of Exhibit B, including the certifications in item (2) thereof.

(iv) Transfer and Exchange of Beneficial Interests in a Restricted Global Note for Beneficial Interests in an Unrestricted Global Note. A beneficial interest in any Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.06(b)(ii) and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit C, including the certifications in item (1)(a) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form of Exhibit B, including the certifications in item (4) thereof;

and, in each such case, if the Company so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

If any such transfer is effected pursuant to this Section 2.06(b)(iv) at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to this Section 2.06(b)(iv).

Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Restricted Global Note.

(c) Transfer or Exchange of Beneficial Interests for Definitive Notes.

(i) Beneficial Interests in Restricted Global Notes to Restricted Definitive Notes. If any holder of a beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Restricted Definitive Note, then, upon the occurrence of any of the events in subclause (i), (ii) or (iii) of Section 2.06(a) and receipt by the Registrar of the following documentation:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for a Restricted Definitive Note, a certificate from such holder substantially in the form of Exhibit C, including the certifications in item (2)(a) thereof;

(B) if such beneficial interest is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B, including the certifications in item (1) thereof;

(C) if such beneficial interest is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B, including the certifications in item (2) thereof;

(D) if such beneficial interest is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate substantially in the form of Exhibit B, including the certifications in item (3)(a) thereof;

(E) if such beneficial interest is being transferred to the Company or any of the Restricted Subsidiaries, a certificate substantially in the form of Exhibit B, including the certifications in item (3)(b) thereof; or

(F) if such beneficial interest is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B, including the certifications in item (3)(c) thereof,

the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h), and the Company shall execute and the Trustee shall, upon receipt of an Authentication Order, authenticate and deliver to the Person designated in the instructions a Definitive Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from the Depositary and the Participant or Indirect Participant. The Trustee shall deliver such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest in a Restricted Global Note pursuant to this Section 2.06(c)(i) (except transfers pursuant to clause (F) above) shall bear the Private Placement Legend and shall be subject to all restrictions on transfer contained therein.

(ii) Beneficial Interests in Regulation S Temporary Global Note to Definitive Notes. Notwithstanding Sections 2.06(c)(i)(A) and (C), a beneficial interest in the Regulation S Temporary Global Note may not be exchanged for a Definitive Note or transferred to a Person who takes delivery thereof in the form of a Definitive Note prior to (A) the expiration of the Restricted Period and (B) the receipt by the Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) of the Securities Act, except in the case of a transfer pursuant to an exemption from the registration requirements of the Securities Act other than Rule 903 or Rule 904.

(iii) Beneficial Interests in Restricted Global Notes to Unrestricted Definitive Notes. A holder of a beneficial interest in a Restricted Global Note may exchange such beneficial interest for an Unrestricted Definitive Note or may transfer such beneficial interest to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note only upon the occurrence of any of the events in subsection (i), (ii) or (iii) of Section 2.06(a) and if the Registrar receives the following:

(A) if the holder of such beneficial interest in a Restricted Global Note proposes to exchange such beneficial interest for an Unrestricted Definitive Note, a certificate from such holder substantially in the form of Exhibit C, including the certifications in item (1)(b) thereof; or

(B) if the holder of such beneficial interest in a Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder substantially in the form of Exhibit B, including the certifications in item (4) thereof;

and, in each such case, if the Company so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iv) Beneficial Interests in Unrestricted Global Notes to Unrestricted Definitive Notes. If any holder of a beneficial interest in an Unrestricted Global Note proposes to exchange such beneficial interest for a Definitive Note or to transfer such beneficial interest to a Person who takes delivery thereof in the form of a Definitive Note, then, upon the occurrence of any of the events in subsection (i), (ii) or (iii) of Section 2.06(a) and satisfaction of the conditions set forth in Section 2.06(b)(ii), the Trustee shall cause the aggregate principal amount of the applicable Global Note to be reduced accordingly pursuant to Section 2.06(h), and the Company shall execute and the Trustee shall, upon receipt of an Authentication Order, authenticate and send to the Person designated in the instructions a Definitive Note in the applicable principal amount. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall be registered in such name or names and in such authorized denomination or denominations as the holder of such beneficial interest shall instruct the Registrar through instructions from or through the Depositary and the Participant or Indirect Participant. The Trustee shall send such Definitive Notes to the Persons in whose names such Notes are so registered. Any Definitive Note issued in exchange for a beneficial interest pursuant to this Section 2.06(c)(iv) shall not bear the Private Placement Legend.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests.

(i) Restricted Definitive Notes to Beneficial Interests in Restricted Global Notes. If any Holder of a Restricted Definitive Note proposes to exchange such Note for

a beneficial interest in a Restricted Global Note or to transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

- (A) if the Holder of such Restricted Definitive Note proposes to exchange such Note for a beneficial interest in a Restricted Global Note, a certificate from such Holder substantially in the form of Exhibit C, including the certifications in item (2)(b) thereof;
- (B) if such Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A, a certificate substantially in the form of Exhibit B, including the certifications in item (1) thereof;
- (C) if such Restricted Definitive Note is being transferred to a Non-U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904, a certificate substantially in the form of Exhibit B, including the certifications in item (2) thereof;
- (D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144, a certificate substantially in the form of Exhibit B, including the certifications in item (3)(a) thereof;
- (E) if such Restricted Definitive Note is being transferred to the Company or any of the Restricted Subsidiaries, a certificate substantially in the form of Exhibit B, including the certifications in item (3)(b) thereof; or
- (F) if such Restricted Definitive Note is being transferred pursuant to an effective registration statement under the Securities Act, a certificate substantially in the form of Exhibit B, including the certifications in item (3)(c) thereof,

the Trustee shall cancel the Restricted Definitive Note, increase or cause to be increased the aggregate principal amount of, in the case of clause (A) of this Section 2.06(d)(i), the applicable Restricted Global Note, in the case of clause (B) of this Section 2.06(d)(i), the applicable 144A Global Note, and in the case of clause (C) of this Section 2.06(d)(i), the applicable Regulation S Global Note.

(ii) Restricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of a Restricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

- (A) if the Holder of such Definitive Notes proposes to exchange such Notes for a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit C, including the certifications in item (1)(c) thereof; or

(B) if the Holder of such Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of a beneficial interest in the Unrestricted Global Note, a certificate from such Holder substantially in the form of Exhibit B, including the certifications in item (4) thereof;

and, in each such case, if the Company so requests or if the Applicable Procedures so require, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

Upon satisfaction of the conditions of any of the subparagraphs in this Section 2.06(d)(ii), the Trustee shall cancel the Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note.

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes. A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial interest in an Unrestricted Global Note or transfer such Definitive Notes to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer, the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes.

If any such exchange or transfer from a Definitive Note to a beneficial interest is effected pursuant to subparagraph (ii)(A), (ii)(B) or (iii) of this Section 2.06(d) at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the principal amount of Definitive Notes so transferred.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a Holder of Definitive Notes and such Holder's compliance with the provisions of this Section 2.06(e), the Registrar shall register the transfer or exchange of Definitive Notes and shall inform the Company of such registration. Prior to such registration of transfer or exchange, the requesting Holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer or exchange in form satisfactory to the Registrar duly executed by such Holder or by its attorney, duly authorized in writing. In the event that the requesting Holder does not transfer the entire principal amount of Notes represented by any such Definitive Note, the Registrar will cancel or cause to be cancelled such Definitive Note and the Company (who will have been informed of such cancellation) shall execute and the Trustee or the Authentication Agent shall authenticate and deliver to the requesting Holder and any transferee Definitive Notes in the appropriate principal amounts to reflect such transfer. In addition, the requesting Holder shall provide any additional



certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.06(e):

(i) Restricted Definitive Notes to Restricted Definitive Notes. Any Restricted Definitive Note may be transferred to and registered in the name of Persons who take delivery thereof in the form of a Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made to a QIB in accordance with Rule 144A, then the transferor must deliver a certificate substantially in the form of Exhibit B, including the certifications in item (1) thereof;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904 then the transferor must deliver a certificate in the form of Exhibit B, including the certifications in item (2) thereof; or

(C) if the transfer will be made pursuant to any other exemption from the registration requirements of the Securities Act, then the transferor must deliver a certificate in the form of Exhibit B, including the certifications required by item (3) thereof, if applicable.

(ii) Restricted Definitive Notes to Unrestricted Definitive Notes. Any Restricted Definitive Note may be exchanged by the Holder thereof for an Unrestricted Definitive Note or transferred to a Person or Persons who take delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

(A) if the Holder of such Restricted Definitive Notes proposes to exchange such Notes for an Unrestricted Definitive Note, a certificate from such Holder substantially in the form of Exhibit C, including the certifications in item (1)(d) thereof; or

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such Holder substantially in the form of Exhibit B, including the certifications in item (4) thereof;

and, in each such case, if the Company so requests, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Private Placement Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A Holder of Unrestricted Definitive Notes may transfer such Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the Holder thereof.

(f) [Reserved].

(g) Legends. The following legends shall appear on the face of all Global Notes and Definitive Notes issued under this Indenture unless specifically stated otherwise in the applicable provisions of this Indenture:

(i) Private Placement Legend.

(A) Except as permitted by subparagraph (B) in this Section 2.06(i), each Global Note and each Definitive Note (and all Notes issued in exchange therefor or substitution thereof) shall bear the legend in substantially the following form:

“THIS NOTE (OR ITS PREDECESSOR) HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND, ACCORDINGLY, THIS NOTE MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS, EXCEPT AS SET FORTH IN THE NEXT SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE HOLDER: (1) REPRESENTS THAT IT IS NOT AN “AFFILIATE” (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF LPL HOLDINGS, INC. AND (A) IT IS A “QUALIFIED INSTITUTIONAL BUYER” (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) (A “QIB”), OR (B) IT IS NOT A U.S. PERSON AND HAS ACQUIRED THIS NOTE IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATIONS UNDER THE SECURITIES ACT; (2) AGREES THAT IT WILL NOT RESELL OR OTHERWISE TRANSFER THIS NOTE OR ANY BENEFICIAL INTEREST HEREIN EXCEPT (A) TO LPL HOLDINGS, INC. OR ANY OF ITS SUBSIDIARIES, (B) TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A QIB PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QIB IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (C) TO NON-U.S. PERSONS IN AN OFFSHORE TRANSACTION MEETING THE REQUIREMENTS OF RULE 903 OR 904 OF REGULATIONS OF THE SECURITIES ACT, (D) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT, (E) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL REASONABLY ACCEPTABLE TO LPL HOLDINGS, INC. AND THE TRUSTEE) OR (F) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH THE APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER APPLICABLE JURISDICTION; (3) AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THIS NOTE OR AN INTEREST HEREIN IS TRANSFERRED A NOTICE SUBSTANTIALLY

TO THE EFFECT OF THIS LEGEND; AND (4) AGREES THAT ANY SECURITY THAT IS OWNED BY AN AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF LPL HOLDINGS, INC. MAY NOT BE RESOLD OR TRANSFERRED BY SUCH AFFILIATE OTHER THAN LPL HOLDINGS, INC. OR A SUBSIDIARY THEREOF OR PURSUANT TO (A) A REGISTRATION STATEMENT UNDER THE SECURITIES ACT, (B) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144 UNDER THE SECURITIES ACT OR (C) ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (IF AVAILABLE) IN A TRANSACTION THAT RESULTS IN SUCH SECURITY NO LONGER BEING A RESTRICTED SECURITY (AS DEFINED UNDER RULE 144). IN THE EVENT ANY SUCH PERSONS BENEFICIALLY OWN AN INTEREST IN THE SECURITY PRIOR TO THE TIME LPL HOLDINGS, INC. REMOVES THE RESTRICTIVE LEGEND ON THE SECURITY, LPL HOLDINGS, INC. MAY REQUIRE THAT SUCH PERSONS HOLD THEIR INTERESTS IN THE SECURITY IN CERTIFICATED FORM BEARING AN APPROPRIATE RESTRICTIVE LEGEND AND A RESTRICTED CUSIP NUMBER. AS USED HEREIN, THE TERMS "OFFSHORE TRANSACTIONS" AND "UNITED STATES" HAVE THE MEANINGS GIVEN TO THEM BY RULE 902 OF REGULATION S UNDER THE SECURITIES ACT. THE INDENTURE CONTAINS A PROVISION REQUIRING THE TRUSTEE TO REFUSE TO REGISTER ANY TRANSFER OF THIS NOTE IN VIOLATION OF THE FOREGOING."

(B) Notwithstanding the foregoing, any Global Note or Definitive Note issued pursuant to subparagraph (b)(iv), (c)(iii), (c)(iv), (d)(ii), (d)(iii), (e)(ii) or (e)(iii) of this Section 2.06 (and all Notes issued in exchange therefor or substitution thereof) shall not bear the Private Placement Legend.

(ii) Global Note Legend. Each Global Note shall bear a legend in substantially the following form:

"THIS GLOBAL NOTE IS HELD BY THE DEPOSITARY (AS DEFINED IN THE INDENTURE GOVERNING THIS NOTE) OR ITS NOMINEE IN CUSTODY FOR THE BENEFIT OF THE BENEFICIAL OWNERS HEREOF, AND IS NOT TRANSFERABLE TO ANY PERSON UNDER ANY CIRCUMSTANCES EXCEPT THAT (I) THE TRUSTEE MAY MAKE SUCH NOTATIONS HEREON AS MAY BE REQUIRED PURSUANT TO SECTION 2.06(h) OF THE INDENTURE, (II) THIS GLOBAL NOTE MAY BE EXCHANGED IN WHOLE BUT NOT IN PART PURSUANT TO SECTION 2.06(a) OF THE INDENTURE, (III) THIS GLOBAL NOTE MAY BE DELIVERED TO THE TRUSTEE FOR CANCELLATION PURSUANT TO SECTION 2.11 OF THE INDENTURE AND (IV) THIS GLOBAL NOTE MAY BE TRANSFERRED TO A SUCCESSOR DEPOSITARY WITH THE PRIOR WRITTEN CONSENT OF THE COMPANY. UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR NOTES IN DEFINITIVE FORM, THIS NOTE MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE

BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) (“DTC”) TO THE COMPANY OR THEIR AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.”

(iii) Regulation S Temporary Global Note Legend. The Regulation S Temporary Global Note shall bear a legend in substantially the following form:

“THE RIGHTS ATTACHING TO THIS REGULATION S TEMPORARY GLOBAL NOTE, AND THE CONDITIONS AND PROCEDURES GOVERNING ITS EXCHANGE FOR CERTIFICATED NOTES, ARE AS SPECIFIED IN THE INDENTURE (AS DEFINED HEREIN).”

(iv) ERISA Legend. The Notes shall bear a legend substantially in the following form:

“BY ACQUIRING THIS NOTE OR ANY INTEREST THEREIN, EACH HOLDER AND EACH TRANSFEREE IS DEEMED TO REPRESENT, WARRANT AND AGREE THAT AT THE TIME OF ITS ACQUISITION AND THROUGHOUT THE PERIOD THAT IT HOLDS THIS NOTE OR ANY INTEREST THEREIN (1) THAT EITHER (A) NO PORTION OF THE ASSETS USED BY SUCH HOLDER OR TRANSFEREE TO ACQUIRE OR HOLD THE NOTES CONSTITUTES ASSETS OF AN EMPLOYEE BENEFIT PLAN THAT IS SUBJECT TO TITLE I OF THE U.S. EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED (“ERISA”), OF A PLAN, INDIVIDUAL RETIREMENT ACCOUNT OR OTHER ARRANGEMENT THAT IS SUBJECT TO SECTION 4975 OF THE U.S. INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”), OR PROVISIONS UNDER ANY OTHER FEDERAL, STATE, LOCAL, NON-U.S. OR OTHER LAWS OR REGULATIONS THAT ARE SIMILAR TO TITLE I OF ERISA OR SECTION 4975 OF THE CODE (“SIMILAR LAWS”), OR OF AN ENTITY WHOSE UNDERLYING ASSETS ARE CONSIDERED TO INCLUDE “PLAN ASSETS” OF ANY SUCH PLAN, ACCOUNT OR ARRANGEMENT OR (B) THE ACQUISITION AND HOLDING OF THE NOTES BY SUCH HOLDER

OR TRANSFEREE WILL NOT CONSTITUTE A NON-EXEMPT PROHIBITED TRANSACTION UNDER SECTION 406 OF ERISA OR SECTION 4975 OF THE CODE OR A SIMILAR VIOLATION UNDER ANY APPLICABLE SIMILAR LAWS.”

(h) Cancellation and/or Adjustment of Global Notes. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or cancelled in whole and not in part, each such Global Note shall be returned to or retained and cancelled by the Trustee in accordance with Section 2.11. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by the Depositary at the direction of the Trustee to reflect such increase.

(i) General Provisions Relating to Transfers and Exchanges.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Global Notes and Definitive Notes upon receipt of an Authentication Order in accordance with Section 2.02 or at the Registrar’s request.

(ii) No service charge shall be made to a holder of a beneficial interest in a Global Note or to a Holder of a Definitive Note for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer taxes or similar governmental charge payable upon exchange or transfer pursuant to Sections 2.07, 2.10, 3.06, 3.09, 4.10, 4.14 and 9.05).

(iii) All Global Notes and Definitive Notes issued upon any registration of transfer or exchange of Global Notes or Definitive Notes shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Global Notes or Definitive Notes surrendered upon such registration of transfer or exchange.

(iv) Neither the Company nor the Registrar shall be required (A) to issue, to register the transfer of or to exchange any Notes during a period beginning at the opening of business 15 days before the day of mailing or electronic delivery of a notice of redemption under Section 3.03 and ending at the close of business on the day of such mailing or electronic delivery, (B) to register the transfer of or to exchange any Note so selected for redemption, in whole or in part, except the unredeemed portion of any Note being redeemed in part, (C) to register the transfer of or to exchange a Note between a

Record Date and the next succeeding Interest Payment Date or (D) to register the transfer or exchange of any Notes tendered (and not withdrawn) for repurchase in connection with a Change of Control Offer, an Asset Sale Offer or other tender offer.

(v) Prior to due presentment for the registration of a transfer of any Note, the Trustee, any Agent and the Company may deem and treat the Person in whose name any Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of (and premium, if any) and interest on such Notes and for all other purposes, and none of the Trustee, any Agent or the Company shall be affected by notice to the contrary.

(vi) Upon surrender for registration of transfer of any Note at the office or agency of the Company designated pursuant to Section 4.02, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more replacement Notes of any authorized denomination or denominations of a like aggregate principal amount.

(vii) At the option of the Holder, subject to Section 2.06(a), Notes may be exchanged for other Notes of any authorized denomination or denominations of a like aggregate principal amount upon surrender of the Notes to be exchanged at such office or agency. Whenever any Global Notes or Definitive Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the replacement Global Notes and Definitive Notes which the Holder making the exchange is entitled to in accordance with the provisions of Section 2.02.

(viii) All certifications, certificates and Opinions of Counsel required to be submitted to the Company pursuant to this Section 2.06 to effect a registration of transfer or exchange may be submitted by facsimile or electronic delivery.

(ix) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer (of which a Responsible Officer of the Trustee has actual knowledge) of any interest in any Note (including any transfers between or among the Depository's Participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

#### Section 2.07 Replacement Notes.

If either (x) any mutilated Note is surrendered to the Trustee, the Registrar or the Company or (y) the Company and the Trustee receive evidence to their satisfaction of the ownership and destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon receipt of an Authentication Order, shall authenticate a replacement Note. An indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note.

Every replacement Note is a contractual obligation of the Company and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Notes duly issued hereunder.

Section 2.08 Outstanding Notes.

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those cancelled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If a Note is replaced pursuant to Section 2.07, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser (as defined in Section 8-303 of the Uniform Commercial Code).

If the principal amount of any Note is considered paid under Section 4.01, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary of the Company or an Affiliate of any thereof) holds, on a Redemption Date or maturity date, money sufficient to pay Notes (or portions thereof) payable on that date, then on and after that date such Notes (or portions thereof) shall be deemed to be no longer outstanding and shall cease to accrue interest.

Section 2.09 Treasury Notes.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company, or by any Affiliate of the Company, shall be considered as though not outstanding, except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes that a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded. Notes so owned which have been pledged in good faith shall not be disregarded if the pledgee establishes to the satisfaction of the Trustee the pledgee's right to deliver any such direction, waiver or consent with respect to such pledged Notes and that the pledgee is not the Company or a Guarantor or any Affiliate of the Company or a Guarantor.

Section 2.10 Temporary Notes.

Until certificates representing Notes are ready for delivery, the Company may prepare and the Trustee, upon receipt of an Authentication Order, shall authenticate temporary Notes. Temporary Notes shall be substantially in the form of certificated Notes but may have variations that the Company considers appropriate for temporary Notes and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Company shall prepare and the Trustee shall, upon receipt of an Authentication Order, authenticate definitive Notes in exchange for temporary Notes.

Holders and beneficial holders, as the case may be, of temporary Notes shall be entitled to all of the benefits accorded to Holders, or beneficial holders, respectively, of Notes under this Indenture.

Section 2.11 Cancellation.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee or, at the direction of the Trustee, the Registrar or the Paying Agent and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall dispose of such cancelled Notes in accordance with its customary procedures (subject to the record retention requirement of the Exchange Act). Certification of the destruction of all cancelled Notes shall be delivered to the Company upon the Company's written request. The Company may not issue new Notes to replace Notes that they have paid or that have been delivered to the Trustee for cancellation.

Section 2.12 Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, it shall pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01. The Company shall notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such defaulted interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such defaulted interest as provided in this Section 2.12. The Trustee shall fix or cause to be fixed each such special record date and payment date; provided that no such special record date shall be less than 10 days prior to the related payment date for such defaulted interest. The Trustee shall promptly notify the Company of such special record date. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall mail or cause to be mailed (first-class postage prepaid) or deliver in accordance with Applicable Procedures, to each Holder a notice at his or her address as it appears in the Note Register that states the special record date, the related payment date and the amount of such interest to be paid.

Subject to the foregoing provisions of this Section 2.12 and for greater certainty, each Note delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.



Section 2.13 CUSIP Numbers.

The Company in issuing the Notes may use CUSIP numbers (if then generally in use) and, if so, the Trustee shall use CUSIP numbers in notices of redemption or exchange as a convenience to Holders; provided that any such notice may state that no representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption or exchange and that reliance may be placed only on the other identification numbers printed on the Notes, and any such notice, redemption or exchange shall not be affected by any defect in or omission of such numbers. The Company will as promptly as practicable notify the Trustee in writing of any change in the CUSIP numbers.

ARTICLE 3

REDEMPTION

Section 3.01 Notices to Trustee.

If the Company elects to redeem Notes pursuant to Section 3.07, it shall furnish to the Trustee, at least two Business Days (unless waived by the Trustee or such shorter time period as the Trustee may agree) before notice of redemption is required to be mailed, caused to be mailed or delivered electronically to Holders pursuant to Section 3.03 but not more than 60 days before a Redemption Date (except a redemption in connection with Article 8 or Article 11), an Officer's Certificate setting forth (i) the paragraph or subparagraph of such Note and/or Section of this Indenture pursuant to which the redemption shall occur, (ii) the redemption date, which shall be selected by the Company in its discretion, subject to any limitations set forth herein (as such date may be delayed pursuant to Section 3.07(e), the "Redemption Date"), (iii) the principal amount of the Notes to be redeemed and (iv) the redemption price.

Section 3.02 Selection of Notes to Be Redeemed or Purchased.

Except with respect to purchases described in Section 3.07(g), if less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee shall select the Notes to be redeemed or purchased (i) if the Notes are listed on any national securities exchange, in compliance with the requirements of the principal national securities exchange on which the Notes are listed, (ii) on a pro rata basis or (iii) to the extent that selection on a pro rata basis is not practicable by lot or such other similar method in accordance with the Applicable Procedures to the extent applicable. In the event of partial redemption or purchase by lot, the particular Notes to be redeemed or purchased shall be selected, unless otherwise provided herein, not less than 10 nor (except in the event the Redemption Date is delayed as a result of any condition precedent to the occurrence thereof not being satisfied or waived by the Company in accordance with Section 3.07(e)) more than 60 days prior to the Redemption Date by the Trustee from the outstanding Notes not previously called for redemption or purchase.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption or purchase and, in the case of any Note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Notes and portions of Notes selected shall be in amounts of \$2,000 or whole multiples of \$1,000 in excess thereof; no

Notes of \$2,000 or less can be redeemed or purchased in part, except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, shall be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

Section 3.03 Notice of Redemption.

Subject to Section 3.07(e) and Section 3.09, the Company shall deliver electronically or mail or cause to be mailed by first-class mail, postage prepaid, notices of redemption at least 10 days but not more than 60 days before the Redemption Date to each Holder of Notes to be redeemed at such Holder's registered address or otherwise in accordance with the Applicable Procedures, except that redemption notices may be mailed or delivered electronically more than 60 days prior to a Redemption Date if the notice is issued in connection with Article 8 or Article 11 or (b) subject to one or more conditions precedent and such redemption date is delayed until such time as any or all such conditions shall be satisfied (or waived by the Company in its sole discretion in accordance with Section 3.07(e)).

The notice shall identify the Notes to be redeemed (including CUSIP numbers) and shall state:

- (a) the Redemption Date;
- (b) the redemption price;
- (c) if any Note is to be purchased or redeemed in part only, the portion of the principal amount of that Note that is to be purchase or redeemed and that, after the Redemption Date upon surrender of such Note, a new Note or Notes in a principal amount equal to the unredeemed portion of the original Note representing the same indebtedness to the extent not redeemed will be issued in the name of the Holder upon cancellation of the original Note; provided that new Notes will only be issued in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof;
- (d) the name and address of the Paying Agent;
- (e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (f) whether such redemption is conditioned on the happening of a future event;
- (g) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the Redemption Date;
- (h) the paragraph or subparagraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and

(i) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

In addition, any notice of redemption may include additional information, including any information pursuant to Section 3.07(e), and that any redemption may be subject to delay as provided in Section 3.07(e).

At the Company's written request, the Trustee shall give the notice of redemption in the Company's name and at its expense; provided that the Company shall have delivered to the Trustee, at least two Business Days (or such shorter period as the Trustee may agree) before notice of redemption is required to be mailed, caused to be mailed or delivered electronically to Holders pursuant to this Section 3.03 (unless a shorter notice shall be agreed to by the Trustee), an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

#### Section 3.04 Effect of Notice of Redemption.

Once notice of redemption is delivered or mailed in accordance with Section 3.03, Notes called for redemption become irrevocably due and payable at the redemption price on the Redemption Date, unless such redemption is conditioned on the happening of a future event. The notice, if delivered or mailed in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. In any case, failure to give such notice by mail or electronic delivery or any defect in the notice to the Holder of any Note designated for redemption in whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. Subject to Section 3.05, on and after the Redemption Date, interest ceases to accrue on Notes or portions of Notes called for redemption.

#### Section 3.05 Deposit of Redemption Price.

Except with respect to purchases described in Section 3.07(g), prior to noon (New York City time) on the Redemption Date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of and accrued and unpaid interest on all Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of, and accrued and unpaid interest on, all Notes to be redeemed or purchased.

If the Company complies with the provisions of the preceding paragraph, on and after the Redemption Date or purchase date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption or purchase. If a Note is redeemed or purchased on or after an applicable Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest to the Redemption Date or purchase date shall be paid to the Person in whose name such Note was registered at the close of business on such Record Date. If any Note called for redemption or purchase shall not be so paid upon surrender for redemption or purchase because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the Redemption Date or purchase date until such principal is paid, and to the extent lawful on any interest accrued to the Redemption Date or purchase date not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01.

Section 3.06 Notes Redeemed or Purchased in Part.

Upon surrender of a Note that is redeemed or purchased in part, the Company shall issue and the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered representing the same indebtedness to the extent not redeemed or purchased; provided that each new Note will be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof. It is understood that, notwithstanding anything in this Indenture to the contrary, only an Authentication Order and not an Opinion of Counsel or Officer's Certificate is required for the Trustee to authenticate such new Note.

Section 3.07 Optional Redemption.

(a) At any time prior to March 15, 2020, the Company may redeem the Notes, in whole or in part, upon notice as described under Section 3.03, at a redemption price equal to 100% of the principal amount of the Notes redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to, but excluding the Redemption Date, subject to the rights of Holders on the relevant Record Date to receive interest due on the relevant Interest Payment Date.

(b) On and after March 15, 2020, the Company may redeem the Notes, in whole or in part, upon notice as described under Section 3.03, at the redemption prices (expressed as percentages of principal amount of the Notes to be redeemed) set forth below, plus accrued and unpaid interest thereon, if any, to, but excluding the applicable Redemption Date, subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date, if redeemed during the twelve-month period beginning on March 15 of each of the years indicated below:

| <u>Year</u>         | <u>Percentage</u> |
|---------------------|-------------------|
| 2020                | 104.313%          |
| 2021                | 102.875%          |
| 2022                | 101.438%          |
| 2023 and thereafter | 100.000%          |

(c) In addition, at any time prior to March 15, 2020, the Company may, at its option, upon notice as described under Section 3.03, on one or more occasions, redeem up to 40% of the aggregate principal amount of Notes issued under this Indenture at a redemption price equal to 105.750% of the aggregate principal amount thereof, plus accrued and unpaid interest thereon, if any, to, but excluding the applicable Redemption Date, subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date, with the aggregate principal amount of the Notes to be redeemed not to exceed an amount equal to the aggregate net cash proceeds of one or more Equity Offerings to the extent such net cash proceeds are received by or contributed to the Company; provided that (a) at least 50% of the aggregate principal amount of Notes originally issued under this Indenture on the

Issue Date and any Additional Notes issued under this Indenture after the Issue Date remains outstanding immediately after the occurrence of each such redemption and (b) that each such redemption occurs within 180 days of the date of closing of each such Equity Offering.

(d) Notwithstanding the foregoing, in connection with any Change of Control Offer, any Asset Sale Offer or other tender offer for the Notes, if Holders of not less than 90% in aggregate principal amount of the outstanding Notes validly tender and do not withdraw such Notes in such Change of Control Offer, Asset Sale Offer or other tender offer and the Company, or any third party making such Change of Control Offer, Asset Sale Offer or other tender offer in lieu of the Company, purchases all of the Notes validly tendered and not validly withdrawn by such Holders, the Company or such third party shall have the right upon not less than 10 nor more than 60 days' prior notice, given not more than 30 days following such purchase date, to redeem all Notes that remain outstanding following such purchase at a price equal to the price offered to each other Holder in such Change of Control Offer, Asset Sale Offer or other tender offer plus, to the extent not included in the Change of Control Offer, Asset Sale Offer or other tender offer payment, accrued and unpaid interest, if any, thereon, to, but excluding, the Redemption Date or purchase date, subject to the right of Holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date falling on or prior to the applicable Redemption Date or purchase date.

(e) Notice of any redemption, whether in connection with an Equity Offering, Change of Control, Asset Sale other transaction or event or otherwise, may, at the Company's discretion, be given prior to the completion or occurrence thereof and be subject to one or more conditions precedent, including, but not limited to, completion or occurrence of the related Equity Offering, Change of Control, Asset Sale or other transaction or event, as the case may be. In addition, if such redemption is subject to satisfaction of one or more conditions precedent, such notice shall state that, in the Company's discretion, the Redemption Date may be delayed until such time (which may be more than 60 days after the date the notice of redemption was mailed or delivered, including by electronic transmission) as any or all such conditions shall be satisfied (or waived by the Company in its sole discretion), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived, in the Company's sole discretion) by the Redemption Date, or by the Redemption Date so delayed, or that such notice may be rescinded at any time in the Company's discretion if the Company determines that any or all of such conditions will not be satisfied. In addition, the Company may provide in such notice that payment of the redemption price and performance of the Company's obligations with respect to such redemption may be performed by another Person.

(f) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06.

(g) The Company and its Affiliates may at any time and from time to time purchase Notes in the open market or otherwise.

Section 3.08 Mandatory Redemption.

The Company shall not be required to make any mandatory redemption or sinking fund payments with respect to the Notes.

Section 3.09 Offers to Repurchase by Application of Excess Proceeds.

(a) In the event that, pursuant to Section 4.10, the Company shall be required to commence an Asset Sale Offer, the Company shall follow the procedures specified below.

(b) The Asset Sale Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the "Offer Period"). No later than five Business Days after the termination of the Offer Period (the "Purchase Date"), the Company shall apply all Excess Proceeds (the "Offer Amount") to the purchase of Notes and, if required, Pari Passu Indebtedness (on a pro rata basis, if applicable, with adjustments as necessary so that no Notes or Pari Passu Indebtedness will be repurchased in part in an unauthorized denomination), or, if less than the Offer Amount has been tendered, all Notes and Pari Passu Indebtedness tendered in response to the Asset Sale Offer. Payment for any Notes so purchased shall be made in the same manner as interest payments are made.

(c) If the Purchase Date is on or after a Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest, if any, up to but excluding the Purchase Date, shall be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Asset Sale Offer.

(d) Upon the commencement of an Asset Sale Offer, the Company shall send, by first-class mail or electronic delivery, a notice to each of the Holders, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The Asset Sale Offer shall be made to all Holders and holders of such Pari Passu Indebtedness. The notice, which shall govern the terms of the Asset Sale Offer, shall state:

- (i) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 and the length of time the Asset Sale Offer shall remain open;
- (ii) the Offer Amount, the purchase price and the Purchase Date;
- (iii) that any Note not tendered or accepted for payment shall continue to accrue interest;
- (iv) that, unless the Company defaults in making such payment, any Note accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest on and after the Purchase Date;
- (v) that any Holder electing to have less than all of the aggregate principal amount of its Notes purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in minimum denominations of \$2,000 or whole multiples of \$1,000 in excess thereof only;

(vi) that Holders electing to have a Note purchased pursuant to any Asset Sale Offer shall be required to surrender the Note, with the form entitled "Option of Holder to Elect Purchase" attached to the Note completed, or transfer by book-entry transfer, to the Company, the Depository, if appointed by the Company, or a Paying Agent at the address specified in the notice at least two Business Days before the Purchase Date;

(vii) that Holders shall be entitled to withdraw their election if the Company, the Depository or the Paying Agent, as the case may be, receives, not later than the close of business on the second Business Day prior to the expiration date of the Offer Period, a facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

(viii) that, if the aggregate principal amount of Notes and Pari Passu Indebtedness surrendered by the holders thereof exceeds the Offer Amount, the Company shall purchase such Notes and such Pari Passu Indebtedness, as the case may be, on a pro rata basis based on the accreted value or principal amount of the Notes or such Pari Passu Indebtedness tendered (with such adjustments as may be deemed appropriate by the Trustee so that only Notes in denominations of \$2,000, or integral multiples of \$1,000 in excess thereof, shall be purchased; provided that no Notes of \$2,000 or less can be redeemed in part, except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder, even if not a multiple of \$1,000, shall be redeemed or purchased); and

(ix) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer) representing the same indebtedness to the extent not repurchased; provided that new Notes will only be issued in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

(e) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions of this Indenture, the Company shall comply with the applicable securities laws and regulations and shall be deemed to have not breached their obligations under this Section 4.10 by virtue of such compliance.

(f) On or before the Purchase Date, the Company shall, to the extent lawful, (1) accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of Notes or portions thereof validly tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes tendered and (2) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof so tendered.

(g) The Company, the Depositary or the Paying Agent, as the case may be, shall promptly mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes properly tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee, upon receipt of an Authentication Order, shall authenticate and mail or deliver (or cause to be transferred by book-entry) such new Note to such Holder (it being understood that, notwithstanding anything in this Indenture to the contrary, no Opinion of Counsel or Officer's Certificate is required for the Trustee to authenticate and mail or deliver such new Note) in a principal amount equal to any unpurchased portion of the Note surrendered representing the same indebtedness to the extent not repurchased; provided that each such new Note shall be in a principal amount of \$2,000 or an integral multiple of \$1,000 in excess thereof. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Asset Sale Offer on or as soon as practicable after the Purchase Date.

Other than as specifically provided in this Section 3.09 or Section 4.10, any purchase pursuant to this Section 3.09 shall be made pursuant to the applicable provisions of Sections 3.01 through 3.06 and 3.07(e).

#### ARTICLE 4

#### COVENANTS

##### Section 4.01 Payment of Notes.

The Company shall pay or cause to be paid the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary, holds as of noon, New York City time, on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

##### Section 4.02 Maintenance of Office or Agency.

The Company shall maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange or presented for payment and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.



The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency for such purposes. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03.

#### Section 4.03 Reports and Other Information.

(a) Whether or not the Company is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, so long as the Notes are outstanding, the Company will furnish to the Holders or cause the Trustee to furnish to the Holders, or file with the SEC for public availability through the SEC's Electronic Data Gathering, Analysis, and Retrieval System (or any successor system) no later than 15 days after the dates specified below:

(i) within 90 days after the end of each fiscal year (or such other period then in effect under the rules and regulations promulgated under the Exchange Act with respect to the filing of an Annual Report on Form 10-K by a non-accelerated filer), an annual report as would be required to be filed with the SEC on Form 10-K if the Company were required to file such reports;

(ii) within 45 days after the end of each of the first three fiscal quarters of each fiscal year (or such other period then in effect under the rules and regulations promulgated under the Exchange Act with respect to the filing of a Quarterly Report on Form 10-Q by a non-accelerated filer), a quarterly report as would be required to be filed with the SEC on Form 10-Q if the Company were required to file such reports; and

(iii) within 5 days after the period then in effect under the rules and regulations promulgated under the Exchange Act with respect to the filing of a Current Report on Form 8-K after the occurrence of an event required to be therein reported, a current report as would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports.

If the Company has designated any of its Subsidiaries as an Unrestricted Subsidiary and if any such Unrestricted Subsidiary or group of Unrestricted Subsidiaries, if taken together as one Subsidiary, would constitute a Significant Subsidiary of the Company, then the annual and quarterly reports required by clauses (i) and (ii) above shall include a presentation of selected financial metrics (in the Company's sole discretion) of such Unrestricted Subsidiaries as a group in the "Management's Discussion and Analysis of Financial Condition and Results of Operations" or other comparable section.

If the Company or any Parent Entity does not file reports containing such information with the SEC, the Company will make available such information and such reports to the Trustee under this Indenture, to any Holder and, upon request, to any beneficial owner of the Notes, in each case by posting such information on its website, on Intralinks or any comparable password-protected online data system which will require a confidentiality acknowledgment, and will make such information readily available to any Holder or any bona fide prospective investor in the Notes (which prospective investors will be limited to “qualified institutional buyers” within the meaning of Rule 144A of the Securities Act that certify their status as such to the reasonable satisfaction of the Company) who agrees to treat such information as confidential or accesses such information on Intralinks or any comparable password-protected online data system which will require a confidentiality acknowledgment; provided that the Company shall post such information thereon and make readily available any password or other login information to any such prospective holder, securities analyst or market maker.

In addition, to the extent not satisfied by the foregoing, the Company shall furnish to Holders and prospective investors in the Notes, upon their request, any information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act so long as the Notes are not freely transferable under the Securities Act.

If any Parent Entity files reports with the SEC in accordance with Section 13 or 15(d) of the Exchange Act, whether voluntarily or otherwise, in compliance with the filing periods specified in the first paragraph of this covenant, then the Company shall be deemed to comply with this covenant. The Trustee will have no responsibility whatsoever to determine if any such filing has occurred. For the avoidance of doubt, such reports need not include separate financial information required by Rules 3-10 and 3-16 of Regulation S-X; provided, however, that if such Parent Entity has more than de minimis operations separate and apart from its ownership in the Company and its Subsidiaries, then the financial statements of the Parent Entity shall be accompanied by selected financial metrics (in the Company’s sole discretion and which need not be audited) that show the differences between the information relating to such Parent Entity and any of its Subsidiaries other than the Company and its Subsidiaries, on the one hand, and the information relating to the Company and its Subsidiaries on a stand-alone basis, on the other hand.

#### Section 4.04 Compliance Certificate.

(a) The Company shall deliver to the Trustee, on or before the deadline for delivery of the annual financial statements required to be delivered pursuant to Section 4.03(a)(i) beginning with the fiscal year ending after the Issue Date, an annual certificate from the principal executive officer, principal financial officer or principal accounting officer of the Company stating that a review of the activities of the Company and the Restricted Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officer with a view to determining whether the Company and the Restricted Subsidiaries have kept, observed, performed and fulfilled their obligations under this Indenture, and further stating, as to such Officer signing such certificate, that to the best of his or her knowledge the Company and the Restricted Subsidiaries have kept, observed, performed and fulfilled in all material respects each and every condition and covenant contained in this Indenture and no Default has occurred and is

continuing with respect to any of the terms, provisions, covenants and conditions of this Indenture (or, if a Default shall have occurred and is continuing, describing all such Defaults of which he or she may have knowledge and what action the Company is taking with respect thereto).

(b) When any Default has occurred and is continuing under this Indenture, the Company shall, within twenty (20) Business Days after becoming aware of such Default, deliver to the Trustee by registered or certified mail, by facsimile transmission or by electronic delivery, a statement specifying such Default and what action the Company is taking with respect thereto.

Section 4.05 Taxes.

The Company shall pay or discharge, and shall cause each of the Restricted Subsidiaries to pay or discharge, prior to delinquency, all material taxes, lawful assessments, and governmental levies except such as are contested in good faith and by appropriate actions or where the failure to effect such payment or discharge is not adverse in any material respect to the Holders.

Section 4.06 Stay, Extension and Usury Laws.

The Company and each of the Guarantors covenant (to the extent that they may lawfully do so) that they shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company and each of the Guarantors (to the extent that they may lawfully do so) hereby expressly waive all benefit or advantage of any such law, and covenant (to the extent that they may lawfully do so) that they shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07 Limitation on Restricted Payments.

(a) The Company shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly:

(I) declare or pay any dividend or make any payment or distribution on account of the Company's, or any of the Restricted Subsidiaries', Equity Interests, including any dividend or distribution payable in connection with any merger or consolidation other than:

(A) dividends, payments or distributions by the Company payable solely in Equity Interests (other than Disqualified Stock) of the Company or in options, warrants or other rights to purchase such Equity Interests (other than Disqualified Stock); or

(B) dividends, payments or distributions by a Restricted Subsidiary so long as, in the case of any dividend, payment or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary other

than a Wholly-Owned Subsidiary, the Company or a Restricted Subsidiary receives at least its pro rata share of such dividend, payment or distribution in accordance with its Equity Interests in such class or series of securities;

(II) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Company or any Parent Entity, including in connection with any merger or consolidation, in each case held by a Person other than the Company or a Restricted Subsidiary;

(III) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case, prior to any scheduled repayment, sinking fund payment or maturity, any Subordinated Indebtedness of the Company or any Guarantor, other than:

(A) Indebtedness permitted under clauses (7), (8) and (9) of Section 4.09(b); or

(B) the payment, redemption, defeasance, purchase, repurchase, retirement for value or other acquisition of such Subordinated Indebtedness purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of such payment, redemption, defeasance, purchase, repurchase, retirement or acquisition; or

(IV) make any Restricted Investment

(all such payments and other actions set forth in clauses (I) through (IV) of this Section 4.07(a) (other than any exception thereto specified above) being collectively referred to as "Restricted Payments"), unless, at the time of such Restricted Payment:

(1) except in the case of a Restricted Investment, no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof;

(2) except in the case of a Restricted Investment, immediately after giving effect to such transaction on a pro forma basis the Company could incur \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a); and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and the Restricted Subsidiaries after the Issue Date (including Restricted Payments pursuant to clauses (1), (2) (with respect to the payment of dividends on Refunding Capital Stock (as defined below) pursuant to clause (b) thereof only), and (6)(c) of Section 4.07(b), but excluding all other Restricted Payments permitted by Section 4.07(b)), is less than the sum of (without duplication):

(a) 50% of the Consolidated Net Income of the Company for the period (taken as one accounting period) beginning on the first day of the fiscal quarter during which the Issue Date occurs to the end of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment, or, in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit; plus

(b) 100% of the aggregate net cash proceeds and the fair market value of marketable securities or other property received by the Company and the Restricted Subsidiaries after the Issue Date (other than net cash proceeds to the extent such net cash proceeds have been used to incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to clause (12)(a) of Section 4.09(b)) from the issue or sale of:

(i) (A) Equity Interests of the Company, including Treasury Capital Stock, but excluding cash proceeds and the fair market value of marketable securities or other property received from the sale of:

(x) Equity Interests of the Company to any future, present or former employees, directors, officers, managers, members of management, independent contractors or consultants (or their respective Immediate Family Members) of the Company, any Parent Entity and the Company's Subsidiaries after the Issue Date to the extent such amounts have been applied to Restricted Payments made in accordance with clause (4) of Section 4.07(b); and

(y) Designated Preferred Stock, and

(B) only to the extent such net cash proceeds, marketable securities or other property are actually contributed to the Company, Equity Interests of any Parent Entity (excluding contributions of the proceeds from the sale of Designated Preferred Stock or contributions to the extent such amounts have been applied to Restricted Payments made in accordance with clause (4) of Section 4.07(b)); or

(ii) debt securities of the Company or a Restricted Subsidiary that have been converted into or exchanged for such Equity Interests of the Company or a Parent Entity;

provided, however, that this clause (b) shall not include the proceeds from (w) Refunding Capital Stock, (x) Equity Interests (or debt securities that has been converted or exchanged for Equity Interests) sold to a Restricted Subsidiary or the Company, as the case may be, (y) Disqualified Stock or debt securities that have been converted into Disqualified Stock or (z) Excluded Contributions; plus

(c) 100% of the aggregate amount of cash and the fair market value of marketable securities or other property contributed to the capital (other than Disqualified Stock) of the Company or that becomes part of the capital of the Company through consolidation, amalgamation or merger, following the Issue

Date (other than net cash proceeds to the extent such net cash proceeds (i) have been used to incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to clause (12)(a) of Section 4.09(b), (ii) are contributed by a Restricted Subsidiary or (iii) constitute Excluded Contributions); plus

(d) 100% of the aggregate amount received in cash and the fair market value of marketable securities or other property received by the Company or any Restricted Subsidiary by means of:

(i) the sale or other disposition (other than to the Company or a Restricted Subsidiary) of, or other returns on Investments from, Restricted Investments made by the Company or the Restricted Subsidiaries and repurchases and redemptions of such Restricted Investments from the Company or the Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments made by the Company or the Restricted Subsidiaries, in each case after the Issue Date; or

(ii) the sale (other than to the Company or a Restricted Subsidiary) of the stock of an Unrestricted Subsidiary or a distribution from an Unrestricted Subsidiary (other than in each case to the extent the Investment in such Unrestricted Subsidiary constituted a Permitted Investment) or a dividend from an Unrestricted Subsidiary after the Issue Date; plus

(e) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary or the merger, consolidation or amalgamation of an Unrestricted Subsidiary into the Company or a Restricted Subsidiary where the Company or such Restricted Subsidiary is the survivor in such merger, consolidation or amalgamation, or the transfer of assets of an Unrestricted Subsidiary to the Company or a Restricted Subsidiary after the Issue Date, the fair market value of the Investment in such Unrestricted Subsidiary at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary or at the time of such merger, consolidation or amalgamation or transfer of assets other than to the extent such Investment constituted a Permitted Investment; plus

(f) \$100,000,000.

(b) The foregoing provisions of Section 4.07(a) shall not prohibit:

(1) the payment of any dividend or distribution or the consummation of any redemption within 60 days after the date of declaration thereof or the giving of such notice, as applicable, if at the date of declaration or the giving of such notice such payment would have complied with the provisions of this Indenture;

(2) (a) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("Treasury Capital Stock") or Subordinated Indebtedness of the Company or any Equity Interests of any Parent Entity, in exchange for, or out of the

proceeds of a sale (other than to the Company or a Restricted Subsidiary) made within 120 days of, Equity Interests of the Company or any Parent Entity to the extent contributed to the Company (in each case, other than any Disqualified Stock) (“Refunding Capital Stock”) and (b) if immediately prior to the retirement of Treasury Capital Stock, the declaration and payment of dividends thereon was permitted under clause (6) of this Section 4.07(b), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of any Parent Entity) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Treasury Capital Stock immediately prior to such retirement;

(3) the prepayment, exchange, redemption, defeasance, repurchase or other acquisition or retirement for value of (i) Subordinated Indebtedness of the Company or a Guarantor made by exchange for, or out of the proceeds of a sale made within 120 days of, new Indebtedness of the Company or a Guarantor or Disqualified Stock of the Company or a Guarantor, (ii) Disqualified Stock of the Company or a Guarantor made in exchange for, or out of the proceeds of a sale made within 120 days of, Disqualified Stock of the Company or a Guarantor or Subordinated Indebtedness of the Company or a Guarantor, (iii) Disqualified Stock of a Restricted Subsidiary that is not a Guarantor made by exchange for, or out of proceeds of the sale of, Disqualified Stock of a Restricted Subsidiary that is not a Guarantor within 120 days of such sale, (iv) Subordinated Indebtedness that constitutes Acquired Indebtedness and (v) Disqualified Stock that would constitute Acquired Indebtedness if it were Indebtedness that, in each case, is incurred in compliance with Section 4.09 and, except with respect to clauses (iv) and (v) of this paragraph, so long as:

(a) the principal amount (or accreted value, if applicable) of such new Indebtedness or the liquidation preference of such new Disqualified Stock does not exceed the principal amount of (or accreted value, if applicable), plus any accrued and unpaid interest on, the Subordinated Indebtedness or the liquidation preference of, plus any accrued and unpaid dividends on, the Disqualified Stock being so prepaid, exchanged, redeemed, defeased, repurchased, acquired or retired, plus the amount of any premium (including tender premiums), penalty or similar amount, defeasance costs, underwriting costs and any fees and expenses (including original issue discount, upfront fees or similar fees) incurred in connection with the issuance of such new Indebtedness or Disqualified Stock;

(b) such new Indebtedness is subordinated to the Notes or the applicable Guarantee at least to the same extent as such Subordinated Indebtedness so prepaid, exchanged, redeemed, defeased, repurchased, acquired or retired;

(c) such new Indebtedness or Disqualified Stock has a final scheduled maturity date equal to or later than the final scheduled maturity date of the Subordinated Indebtedness or Disqualified Stock being so prepaid, exchanged, redeemed, defeased, repurchased, acquired or retired (or, if earlier, a date that is at least 91 days after the maturity date of the Notes); and

(d) such new Indebtedness or Disqualified Stock has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of the Subordinated Indebtedness or Disqualified Stock being so prepaid, exchanged, defeased, redeemed, repurchased, acquired or retired (or requires no or nominal payments in cash prior to the date that is 91 days after the maturity date of the Notes);

(4) a Restricted Payment to pay for the repurchase, retirement or other acquisition or retirement for value of Equity Interests (other than Disqualified Stock) of the Company or any Parent Entity held by any future, present or former employee, director, officer, manager, member of management, independent contractor or consultant (or their respective Immediate Family Members) of the Company, any of its Subsidiaries or any Parent Entity pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, any severance agreement or any stock subscription or equityholder agreement (including, for the avoidance of doubt, any principal and interest payable on any Indebtedness issued by the Company or any Parent Entity in connection with such repurchase, retirement or other acquisition); provided, however, that, except with respect to non-discretionary repurchases, acquisitions, retirements or redemptions pursuant to the terms of any stock option or stock appreciation rights plan, any management, director and/or employee stock ownership or incentive plan, stock subscription plan, employment termination agreement or any other employment agreement or equity holders' agreement, the aggregate Restricted Payments made under this clause (4) do not exceed \$25,000,000 in any fiscal year of the Company (with 100% of unused amounts in any fiscal year being carried over to the two immediately succeeding fiscal years (but not any other) and utilized to make payments pursuant to this clause (4) (any amount so carried forward shall be deemed to be used last in the subsequent fiscal year)); provided further that such amount in any fiscal year may be increased by an amount not to exceed:

(a) the proceeds from the sale of Equity Interests (other than Disqualified Stock) of the Company and, to the extent contributed to the Company, the proceeds from the sale of Equity Interests of any Parent Entity, in each case to any future, present or former employees, directors, officers, managers, members of management, independent contractors or consultants (or their respective Immediate Family Members) of the Company, any of its Subsidiaries or any Parent Entity that occurs after the Issue Date, to the extent the proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (3) of Section 4.07(a); plus

(b) the amount of any cash bonuses otherwise payable to members of management, employees, directors, officers, managers, independent contractors or consultants (or their respective Immediate Family Members) of the Company, any of its Subsidiaries or any Parent Entity that are foregone in exchange for the receipt of Equity Interests of the Company or any Parent Entity pursuant to any deferred compensation plan of such company; plus



(c) the cash proceeds of key man life insurance policies received by the Company or the Restricted Subsidiaries after the Issue Date; less

(d) the amount of any Restricted Payments previously made pursuant to clauses (a) and (c) of this clause (4);

and provided that the Company may elect to apply all or any portion of the aggregate increase contemplated by clauses (a), (b) and (c) above in any calendar year and provided further that cancellation of Indebtedness owing to the Company or any Restricted Subsidiary from any future, present or former employees, directors officers, managers, members of management, independent contractors or consultants (or their respective Immediate Family Members) of the Company, any Parent Entity or any of the Restricted Subsidiaries in connection with a repurchase of Equity Interests of the Company or any Parent Entity will not be deemed to constitute a Restricted Payment for purposes of this Section 4.07 or any other provision of this Indenture;

(5) the declaration and payment of dividends to holders of any class or series of Disqualified Stock of the Company or any of the Restricted Subsidiaries or any class or series of Preferred Stock of any Restricted Subsidiary, in each case issued in accordance with Section 4.09 to the extent such dividends are included in the definition of "Fixed Charges";

(6) (a) the declaration and payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) issued by the Company or any of the Restricted Subsidiaries after the Issue Date;

(b) the declaration and payment of dividends to a Parent Entity, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of such Parent Entity issued after the Issue Date; provided that the amount of dividends paid pursuant to this subclause (b) shall not exceed the aggregate amount of cash actually contributed to the Company from the sale of such Designated Preferred Stock; or

(c) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock in excess of the dividends declarable and payable thereon pursuant to clause (2) of this Section 4.07(b);

provided, however, in the case of each of clauses (a) and (c) of this clause (6), that for the most recently ended Test Period immediately preceding the date of issuance of such Designated Preferred Stock or the declaration of such dividends on Refunding Capital Stock that is Preferred Stock but is not Designated Preferred Stock, after giving effect to such issuance or declaration on a pro forma basis, the Company and the Restricted Subsidiaries on a consolidated basis would have had a Fixed Charge Coverage Ratio of at least 2.00 to 1.00;

(7) payments made or expected to be made by the Company or any Restricted Subsidiary in respect of withholding or similar taxes payable in connection with the exercise or vesting of Equity Interests or other equity awards by any future, present or former employee, director, officer, manager, member of management, consultant or independent contractor (or their respective Immediate Family Members) of the Company or any Restricted Subsidiary or any Parent Entity, and repurchases or withholdings of Equity Interests in connection with any exercise of stock or other equity options or warrants or the vesting of Equity Interests or other equity awards if such Equity Interests represent a portion of the exercise price thereof or payments in lieu of the issuance of fractional Equity Interests, or withholding obligation in connection therewith;

(8) the declaration and payment of dividends on, or the purchase, redemption, defeasance or other acquisition or retirement for value of, the Company's common equity (or the payment of dividends to any Parent Entity to fund a payment of dividends on such entity's common equity or to fund such Parent Entity's purchase, redemption, defeasance or other acquisition or retirement for value of such Parent Entity's common equity) in an aggregate amount not to exceed in any fiscal year \$50,000,000;

(9) Restricted Payments in an amount that does not exceed the aggregate amount of Excluded Contributions made since the Issue Date;

(10) (x) other Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this subclause (10)(x) not to exceed the greater of \$300,000,000 and 54.0% of Consolidated EBITDA at the time made and (y) repurchase, retirement or other acquisition or retirement for value of Equity Interests (other than Disqualified Stock) of the Company or any Parent Entity in an aggregate amount taken together with all other Restricted Payments made pursuant to this sub-clause (10)(y) not to exceed the greater of \$150,000,000 and 27.0% of Consolidated EBITDA at the time made;

(11) distributions or payments of Receivables Fees and purchases of receivables in connection with any Receivables Facility or any repurchase obligation in connection therewith;

(12) the repurchase, redemption, defeasance or other acquisition or retirement for value of any Subordinated Indebtedness in accordance with provisions similar to those described under Section 4.10 and Section 4.14; provided that if the Company shall have been required to make a Change of Control Offer or Asset Sale Offer, as applicable, to purchase the Notes on the terms provided in this Indenture applicable to Change of Control Offers or Asset Sale Offers, respectively, all Notes validly tendered by Holders of such Notes in connection with a Change of Control Offer or Asset Sale Offer, as applicable, have been repurchased, redeemed, acquired, defeased or retired for value;

(13) the declaration and payment of dividends by the Company to, or the making of loans to, any Parent Entity in amounts required for any Parent Entity to pay or cause to be paid, in each case without duplication,

- (a) franchise or similar taxes and other fees and expenses, in each case, required to maintain its organizational existence;
- (b) foreign, federal, state and local income and similar taxes (including any interest or penalties related thereto), to the extent such income or similar taxes are attributable to the income, revenue, receipts, capital or margin of the Company, its Restricted Subsidiaries and, to the extent of the amount actually received from its Unrestricted Subsidiaries, in amounts required to pay such taxes to the extent attributable to the income of such Unrestricted Subsidiaries; provided that in each case the amount of such payments in any fiscal year does not exceed the amount that the Company, its Restricted Subsidiaries and, to the extent described above, its Unrestricted Subsidiaries would be required to pay in respect of foreign, federal, state and local taxes for such fiscal year were the Company, its Restricted Subsidiaries and, to the extent described above, its Unrestricted Subsidiaries to pay such taxes separately from any such Parent Entity;
- (c) customary salary, bonus, severance and other benefits payable to, and indemnities provided on behalf of, officers, employees by directors and consultants of any Parent Entity to the extent such salaries, bonuses, severance and other benefits and indemnities are attributable to the ownership or operation of the Company and the Restricted Subsidiaries, including the Company's or Restricted Subsidiaries proportionate share of such amount relating to such Parent Entity being a public company;
- (d) general corporate operating (including, without limitation, expenses related to auditing or other accounting matters), administrative, compliance and overhead costs and expenses of any Parent Entity to the extent such costs and expenses are attributable to the ownership or operation of the Company and the Restricted Subsidiaries, including the Company's proportionate share of such amount relating to such Parent Entity being a public company;
- (e) fees and expenses other than to Affiliates of the Company related to any unsuccessful equity or debt offering of such Parent Entity;
- (f) cash payments in lieu of issuing fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests of the Company or any Parent Entity;
- (g) amounts that, if paid directly by the Company, would be payable pursuant to clause (7) of this Section 4.07(b); and
- (h) for the financing of Investments or other acquisitions that would otherwise be permitted to be made pursuant to this covenant if made by the Company; provided that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment or other acquisition, (B) such Parent Entity shall, promptly following the closing thereof, cause (1) all property

acquired (whether assets or Equity Interests) to be contributed to the capital of the Company or one of its Restricted Subsidiaries or (2) the merger or amalgamation of the Person formed or acquired into the Company or one of its Restricted Subsidiaries (to the extent not prohibited by the covenant described Section 5.01) in order to consummate such Investment or other acquisition, (C) such Parent Entity and its Affiliates (other than the Company or a Restricted Subsidiary) receives no consideration or other payment in connection with such transaction except to the extent the Company or a Restricted Subsidiary could have given such consideration or made such payment in compliance with this Indenture, (D) any property received by the Company shall not increase amounts available for Restricted Payments pursuant to clause (3) of Section 4.07(a) and (E) to the extent constituting an Investment, such Investment shall be deemed to be made by the Company or such Restricted Subsidiary pursuant to another provision of this Section 4.07 (other than pursuant to clause (9) hereof) or pursuant to the definition of "Permitted Investments" (other than clause (9) thereof);

(14) the repurchase, redemption, or other acquisition for value of Equity Interests of the Company or any Restricted Subsidiary deemed to occur in connection with paying cash in lieu of fractional shares of such Equity Interests in connection with a share dividend, distribution, share split, reverse share split, merger, consolidation, amalgamation or other business combination of the Company or any Restricted Subsidiary, in each case, permitted under this Indenture;

(15) the distribution, by dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Company or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than Unrestricted Subsidiaries, the primary assets of which are cash and/or Cash Equivalents);

(16) payments or distributions to satisfy dissenters' rights pursuant to or in connection with an acquisition, merger, consolidation, amalgamation or transfer of assets that complies with Section 5.01;

(17) (x) payments made to option holders or holders of profits interests of the Company or any Parent Entity in connection with, or as a result of, any distribution being made to equityholders of the Company or any Parent Entity, which payments are being made to compensate such option holders or holders of profits interests as though they were equityholders at the time of, and entitled to share in, such distribution, in each case to the extent permitted under this Indenture (it being understood that no such payment may be made to an optionholder pursuant to this clause (17) to the extent such payment would not have been permitted, pursuant to any provision of this Section 4.07, other than this clause (17)(x), to be made to such optionholder if it were a shareholder, and, for the avoidance of doubt, any amounts paid pursuant to this subclause (x) shall count against the amount available under such other provision), and (y) Restricted Payments to pay for the repurchase, retirement or other acquisition, in each case for nominal value, of Equity Interests of the Company or any Parent Entity from a former investor of an acquired business or a current or former employee, director or consultant of an acquired business (or their respective Immediate Family Members), which Equity Interests were issued as part of an earn-out or similar arrangement in the acquisition of such business, and which repurchase relates the failure of such earn-out to fully vest;

(18) to the extent constituting Restricted Payments, the Company and the Restricted Subsidiaries may enter into and consummate transactions expressly permitted by clauses (3), (10), (12), (14) and (20) of Section 4.11(b); and

(19) any other Restricted Payment, provided that on a pro forma basis after giving effect to such Restricted Payment the Consolidated Total Debt Ratio would be equal to or less than 3.25 to 1.0;

provided, however, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (10), (15) and (19) of this Section 4.07(b), no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof.

(c) For purposes of determining compliance with this Section 4.07, (A) in the event that a proposed Restricted Payment or Investment (or a portion thereof) meets the criteria of clauses (1) through (19) above, is entitled to be made pursuant to Section 4.07(a) and/or the clauses contained in the definition of "Permitted Investment," the Company will be entitled to divide and classify or later re-divide and reclassify (based on circumstances existing on the date of such reclassification) such Restricted Payment (or portion thereof) on one or more occasions between one or more of such clauses (1) through (19), Section 4.07(a), and/or the clauses contained in the definition of "Permitted Investment" and (B) availability and utilization of any category of financial ratio based exceptions, thresholds and baskets shall first be calculated without giving effect to amounts to be utilized under any other category of exceptions, thresholds and baskets at such time of determination (including at the time of any initial division and classification and any later re-divisions and reclassifications) and thereafter, availability and utilization of any category of exceptions, thresholds and baskets that are not financial ratio based shall be calculated.

(d) The amount of all Restricted Payments (other than cash) will be the fair market value on the date the Restricted Payment is made, or at the Company's election, the date a commitment is made to make such Restricted Payment, of the assets or securities proposed to be transferred or issued by the Company or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment.

(e) The Company will not permit any Unrestricted Subsidiary to become a Restricted Subsidiary except pursuant to the penultimate sentence of the definition of "Unrestricted Subsidiary." For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Company and the Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments or Permitted Investments in an amount determined as set forth in the last sentence of the definition of "Investments." Such designation will be permitted only if a Restricted Payment or Permitted Investment in such amount would be permitted at such time, whether pursuant to this Section 4.07 or pursuant to the definition of "Permitted Investments," and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Unrestricted Subsidiaries will not be subject to any of the restrictive covenants set forth in this Indenture.

(f) For the avoidance of doubt, this covenant shall not restrict the making of any “AHYDO catch-up payment” with respect to, and required by the terms of, any Indebtedness of the Company or any of its Restricted Subsidiaries permitted to be incurred under the terms of this Indenture.

Section 4.08 Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries.

(a) The Company shall not, and shall not permit any of the Restricted Subsidiaries that are not Guarantors to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of any such Restricted Subsidiary to:

(1) (A) pay dividends or make any other distributions to the Company or any of its Restricted Subsidiaries that is a Guarantor on its Capital Stock or with respect to any other interest or participation in, or measured by, its profits, or

(B) pay any Indebtedness owed to the Company or any of its Restricted Subsidiaries that is a Guarantor;

(2) make loans or advances to the Company or any of its Restricted Subsidiaries that is a Guarantor; or

(3) sell, lease or transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries that is a Guarantor.

(b) The restrictions in Section 4.08(a) shall not apply to encumbrances or restrictions existing under or by reason of:

(1) contractual encumbrances or restrictions in effect on the Issue Date, including pursuant to the Senior Credit Agreement and the related documentation and related Hedging Obligations;

(2) this Indenture, the Notes and the Guarantees;

(3) purchase money obligations for property acquired in the ordinary course of business and Capitalized Lease Obligations that impose restrictions of the nature discussed in clause (3) of Section 4.08(a) on the property so acquired;

(4) applicable law or any applicable rule, regulation or order;

(5) any agreement or other instrument of a Person acquired by or merged or consolidated with or into the Company or any Restricted Subsidiary in existence at the time of such transaction, or that is assumed in connection with the acquisition of assets from such Person (but, in each case, not created in contemplation thereof), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired;

- (6) contracts for the sale of assets, including customary restrictions with respect to a Subsidiary of the Company pursuant to an agreement that has been entered into for the sale or disposition of any Capital Stock or assets of such Subsidiary;
- (7) Secured Indebtedness otherwise permitted to be incurred pursuant to the covenants described in Section 4.09;
- (8) restrictions on cash or other deposits or net worth imposed by suppliers, customers or landlords under contracts entered into in the ordinary course of business;
- (9) any agreement or instrument relating to any Indebtedness, Disqualified Stock or Preferred Stock permitted to be incurred or issued subsequent to the Issue Date pursuant to the provisions of Section 4.09 if either (i) in the good faith judgment of the Company, such encumbrances or restrictions will not materially affect the Company's ability to make principal or interest payments on the Notes as and when they come due or (ii) such encumbrances and restrictions apply only during the continuance of a default in respect of a payment or financial maintenance covenant relating to such Indebtedness;
- (10) customary provisions in joint venture agreements or arrangements and other similar agreements relating solely to such joint venture;
- (11) customary provisions contained in leases, sub-leases, licenses, sub-licenses or similar agreements, including with respect to intellectual property and other agreements, in each case entered into in the ordinary course of business or that in the judgment of the Company would not materially impair the Company's ability to make payments under the Notes when due;
- (12) restrictions or conditions contained in any trading, netting, operating, construction, service, supply, purchase, sale or other agreement to which the Company or any of the Restricted Subsidiaries is a party entered into in the ordinary course of business; provided that such agreement prohibits the encumbrance of solely the property or assets of the Company or such Restricted Subsidiary that are the subject of such agreement, the payment rights arising thereunder or the proceeds thereof and does not extend to any other asset or property of the Company or such Restricted Subsidiary or the assets or property of another Restricted Subsidiary;
- (13) any encumbrance or restriction with respect to a Subsidiary which was previously an Unrestricted Subsidiary pursuant to or by reason of an agreement that such Subsidiary is a party to or entered into before the date on which such Subsidiary became a Restricted Subsidiary; provided that such agreement was not entered into in anticipation of an Unrestricted Subsidiary becoming a Restricted Subsidiary and any such encumbrance or restriction does not extend to any assets or property of the Company or any other Restricted Subsidiary other than the assets and property of such Subsidiary;
- (14) restrictions created in connection with any Receivables Facility that, in the good faith determination of the Company, are necessary or advisable to effect such Receivables Facility;

(15) customary restrictions and conditions contained in documents relating to any Lien so long as (i) such Lien is a Permitted Lien and such restrictions or conditions relate only to the specific asset subject to such Lien and (ii) such restrictions and conditions are not created for the purpose of avoiding the restrictions imposed by this covenant;

(16) customary provisions restricting assignment of any agreement; and

(17) any encumbrances or restrictions of the type referred to in clauses (1), (2) and (3) of Section 4.08(a) imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (16) of this Section 4.08(b); provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Company, not materially more restrictive with respect to such encumbrance and other restrictions taken as a whole than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

(c) For purposes of determining compliance with this Section 4.08, (i) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Capital Stock and (ii) the subordination of loans and advances made to the Company or a Restricted Subsidiary, to other Indebtedness incurred by the Company or such Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

#### Section 4.09 Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock.

(a) The Company shall not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise (collectively, “incur” and collectively, an “incurrence”) with respect to any Indebtedness (including Acquired Indebtedness) and the Company shall not issue any shares of Disqualified Stock and will not permit any Restricted Subsidiary to issue any shares of Disqualified Stock or Preferred Stock; provided, however, that the Company may incur Indebtedness (including Acquired Indebtedness) and issue shares of Disqualified Stock, and any of the Restricted Subsidiaries may incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock and Preferred Stock, if the Fixed Charge Coverage Ratio on a consolidated basis for the Company and the Restricted Subsidiaries’ most recently ended Test Period immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued would have been at least 2.00 to 1.00, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such Test Period; provided further that Restricted Subsidiaries that are not Guarantors (except for any Broker-Dealer Regulated Subsidiary) may



not incur Indebtedness or issue Disqualified Stock or Preferred Stock if, after giving pro forma effect to such incurrence or issuance (including a pro forma application of the net proceeds therefrom), the aggregate amount of Indebtedness (including Acquired Indebtedness), Disqualified Stock and Preferred Stock of Restricted Subsidiaries that are not Guarantors would be outstanding pursuant to this Section 4.09(a) (together with any Refinancing Indebtedness in respect thereof) at such time exceeds the greater of (i) \$200,000,000 and (ii) 36.0% of Consolidated EBITDA at the time of any incurrence pursuant to this Section 4.09(a).

(b) The provisions of Section 4.09(a) shall not apply to:

(1) the incurrence of Indebtedness under Credit Facilities by the Company or any of the Restricted Subsidiaries and the issuance and creation of letters of credit and bankers' acceptances thereunder (with letters of credit and bankers' acceptances being deemed to have a principal amount equal to the face amount thereof), up to an aggregate principal amount outstanding at any one time not to exceed the sum of (a) \$2,200,000,000 plus (b) the greater of \$500,000,000 and 100% of Consolidated EBITDA plus (c) the maximum principal amount of Secured Indebtedness that could be incurred such that after giving pro forma effect to such incurrence, the Consolidated Secured Debt Ratio would be no greater than 4.00 to 1.00, in each case, outstanding at any one time (provided that for purposes of determining the amount of Indebtedness that may be incurred pursuant to this subclause (c), all Indebtedness incurred pursuant to this subclause (c) shall be deemed to be included in clause (1) of the definition of "Consolidated Secured Debt Ratio"); provided that any Indebtedness incurred under this clause (1) may be extended, replaced, refunded, refinanced, renewed or defeased with new Indebtedness so long as the principal amount of such new Indebtedness does not exceed the sum of (x) the principal amount of the Indebtedness (including unutilized commitments) being so extended, replaced, refunded, refinanced, renewed or defeased, plus (y) the amount of any premiums (including tender premiums), penalties and similar amounts, defeasance costs, accrued interest, underwriting discounts and fees and expenses (including original issue discount, upfront fees or similar fees) in connection therewith (including with respect to such new Indebtedness);

(2) the incurrence by the Company and any Guarantors of Indebtedness represented by the Notes (other than any Additional Notes) and the related Guarantees;

(3) Indebtedness of the Company and the Restricted Subsidiaries in existence on the Issue Date (other than Indebtedness described in clauses (1) and (2) of this Section 4.09(b));

(4) Indebtedness (including Capitalized Lease Obligations) or Disqualified Stock incurred by the Company or any of the Restricted Subsidiaries and Preferred Stock issued by a Restricted Subsidiary, to finance the purchase, lease, construction, repair, expansion, installation or improvement of property (real or personal), equipment or other assets, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets so long as such Indebtedness exists at the date of such purchase, lease, construction, repair, expansion, installation or improvement or is created within 360 days thereafter; provided that the aggregate amount of Indebtedness, Disqualified

Stock and Preferred Stock incurred and outstanding pursuant to this clause (4), when aggregated with the outstanding amount of Refinancing Indebtedness under clause (13) of this Section 4.09(b) incurred to refinance Indebtedness initially incurred in reliance on this clause (4), does not exceed at any one time outstanding the greater of \$50,000,000 and 9.0% of Consolidated EBITDA at the time of any incurrence pursuant to this clause (4);

(5) Indebtedness incurred by the Company or any of the Restricted Subsidiaries constituting reimbursement obligations with respect to bankers' acceptances, bank guarantees, letter of credit, warehouse receipts or similar facilities issued or entered into in the ordinary course of business, including in respect of workers' compensation claims, performance, completion or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation claims, performance or surety bonds, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance;

(6) Indebtedness arising from agreements of the Company or the Restricted Subsidiaries providing for indemnification, adjustment of purchase price, earn outs or similar obligations, in each case, incurred or assumed in connection with Investments permitted under this Indenture, and the disposition or acquisition of any business, assets or Capital Stock, other than guarantees of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or Capital Stock for the purpose of financing such acquisition;

(7) Indebtedness of the Company owing to a Restricted Subsidiary; provided that if such Indebtedness is owing to a Restricted Subsidiary that is not a Guarantor and if such Indebtedness is not in respect of accounts payable incurred in connection with goods and services rendered in the ordinary course of business (and not in connection with the borrowing of money), such Indebtedness is expressly subordinated in right of payment to the Notes to the extent such subordination is permitted by applicable law; provided further that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien (but not foreclosure thereon)) shall be deemed, in each case, to be an incurrence of such Indebtedness (to the extent such Indebtedness is then outstanding) not permitted by this clause (7);

(8) Indebtedness of a Restricted Subsidiary owing to the Company or another Restricted Subsidiary; provided that if a Guarantor incurs such Indebtedness owing to a Restricted Subsidiary that is not a Guarantor and if such Indebtedness is not in respect of accounts payable incurred in connection with goods sold or services rendered in the ordinary course of business (and not in connection with the borrowing of money), such Indebtedness shall be expressly subordinated in right of payment to the Guarantee of the Notes of such Guarantor to the extent such subordination is permitted by applicable law; provided further that any subsequent issuance or transfer of any Capital Stock or any

other event that results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien (but not foreclosure thereon)) shall be deemed, in each case, to be an incurrence of such Indebtedness (to the extent such Indebtedness is then outstanding) not permitted by this clause (8);

(9) shares of Preferred Stock of a Restricted Subsidiary issued to the Company or another Restricted Subsidiary; provided that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock (except to the Company or another of the Restricted Subsidiaries or any pledge of such Preferred Stock constituting a Permitted Lien (but not foreclosure thereon)) shall be deemed in each case to be an issuance of such shares of Preferred Stock not permitted by this clause (9);

(10) (x) Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes) and (y) Indebtedness in respect of any Bank Products in the ordinary course of business;

(11) obligations in respect of self-insurance and obligations in respect of stays, customs, performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Company or any of the Restricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business;

(12) (a) Indebtedness or Disqualified Stock of the Company and Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference up to 100.0% of the net cash proceeds received by the Company after the Issue Date from the issue or sale of Equity Interests of the Company or cash contributed to the capital of the Company (in each case, other than Excluded Contributions or proceeds of Disqualified Stock or sales of Equity Interests to the Company or any of its Subsidiaries) as determined in accordance with clauses (3)(b) and (3)(c) of Section 4.07(a) to the extent such net cash proceeds or cash have not been applied pursuant to such clauses to make Restricted Payments or to make other Investments, payments or exchanges pursuant to Section 4.07(b) or to make Permitted Investments specified in clauses (8), (13), (27), (30), (34) and (38) of the definition thereof and (b) Indebtedness or Disqualified Stock of the Company and Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference, which, when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred pursuant to this clause (12)(b), does not exceed the greater of (x) \$150,000,000 and (y) 27.0% of Consolidated EBITDA at the time of any incurrence pursuant to this clause (12)(b) (it being understood that any Indebtedness, Disqualified Stock or Preferred Stock incurred pursuant to this clause (12)(b) shall cease to be deemed incurred or outstanding for purposes of this clause (12)(b) but shall be deemed incurred for the purposes of Section 4.09(a) from and after

the first date on which the Company or such Restricted Subsidiary could have incurred such Indebtedness, Disqualified Stock or Preferred Stock under Section 4.09(a) without reliance on this clause (12)(b));

(13) the incurrence by the Company or any Restricted Subsidiary of Indebtedness, the issuance by the Company or any Restricted Subsidiary of Disqualified Stock, or the issuance by any Restricted Subsidiary of Preferred Stock which serves to refund, refinance, replace, renew, extend or defease (collectively, “refinance” with “refinances,” “refinanced” and “refinancing” having a correlative meaning) any Indebtedness, Disqualified Stock or Preferred Stock incurred (including any existing commitments unutilized thereunder) as permitted under the first paragraph of this covenant and clauses (2), (3), (4) and (12)(a) above, this clause (13) and clause (14) below or any Indebtedness, Disqualified Stock or Preferred Stock issued to so refinance, such Indebtedness, Disqualified Stock or Preferred Stock including additional Indebtedness, Disqualified Stock or Preferred Stock incurred to pay accrued and unpaid interest and dividends, premiums (including reasonable tender premiums), penalties and similar amounts, underwriting costs and fees and expenses (including original issue discount, upfront fees or similar fees), defeasance costs and fees and expenses in connection therewith (including with respect to such new Indebtedness, Disqualified Stock or Preferred Stock) (the “Refinancing Indebtedness”) on or prior to its respective maturity; provided, however, that such Refinancing Indebtedness:

(A) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refinanced (or requires no or nominal payments in cash prior to the date that is 91 days after the maturity date of the Notes),

(B) to the extent such Refinancing Indebtedness refinances (i) Indebtedness subordinated in right of payment to the Notes or any Guarantee thereof, such Refinancing Indebtedness is subordinated in right of payment to the Notes to the same extent as the Indebtedness being refinanced, except to the extent such extension, replacement, refunding, renewal, defeasance or refinancing constitutes either (x) a Restricted Payment or (y) a payment described in clause (III)(b) of Section 4.07(a) (in which case under clause (x) or (y), this subclause (b) shall not apply) or (ii) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness must be Disqualified Stock or Preferred Stock, respectively, and

(C) shall not include:

- (i) Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary that is not a Guarantor that refinances Indebtedness or Disqualified Stock or Preferred Stock of the Company,
- (ii) Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary that is not a Guarantor that refinances Indebtedness, Disqualified Stock or Preferred Stock of a Guarantor or

- (iii) Indebtedness or Disqualified Stock of the Company or Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary that refinances Indebtedness, Disqualified Stock or Preferred Stock of an Unrestricted Subsidiary;

and provided further that subclause (A) of this clause (13) will not apply to refinancing of any Secured Indebtedness;

(14) (x) Indebtedness or Disqualified Stock of the Company or Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary incurred or issued to finance an acquisition (or other purchase of assets) or (y) Indebtedness, Disqualified Stock or Preferred Stock of Persons that are acquired by the Company or any Restricted Subsidiary or merged into, amalgamated with or consolidated with the Company or a Restricted Subsidiary in accordance with the terms of this Indenture or that is assumed by the Company or any Restricted Subsidiary in connection with such acquisition, merger, amalgamation or consolidation; provided that after giving effect to such acquisition, amalgamation, merger or consolidation, (a) the aggregate principal amount of such Indebtedness incurred under this subclause (a) does not exceed \$100,000,000 at any time outstanding or (b) either (x) after giving pro forma effect to such acquisition, amalgamation, consolidation or merger, the Fixed Charge Coverage Ratio for the Test Period preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued is would have been at least 2.00 to 1.00, (y) after giving pro forma effect to such acquisition, amalgamation, consolidation or merger, the Fixed Charge Coverage Ratio for the Test Period preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued is equal to or greater than immediately prior to such acquisition, merger, amalgamation or consolidation or (z) after giving pro forma effect to such acquisition, amalgamation, consolidation or merger, the Consolidated Total Debt Ratio for the Test Period preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or Preferred Stock is issued is either (1) equal to or less than immediately prior to such acquisition, merger, amalgamation or consolidation or (2) less than 3.40 to 1.00;

(15) Cash management obligations and other Indebtedness in respect of netting services, automatic clearing house arrangements, employees' credit or purchase cards, overdraft protections and similar arrangements and other Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in each case incurred in the ordinary course of business;

(16) Indebtedness of the Company or any of the Restricted Subsidiaries supported by a letter of credit issued pursuant to Credit Facilities, in a principal amount not in excess of the stated amount of such letter of credit;

(17) (a) any guarantee by the Company or a Restricted Subsidiary of Indebtedness or other obligations of any Restricted Subsidiary so long as the incurrence of such Indebtedness incurred by such Restricted Subsidiary is permitted under the terms of this Indenture, or

(b) any guarantee by a Restricted Subsidiary of Indebtedness of the Company or any other Restricted Subsidiary so long as the incurrence of that such Indebtedness is permitted under the terms of this Indenture;

(18) Indebtedness of Restricted Subsidiaries that are not Guarantors incurred pursuant to this clause (18) not to exceed at any one time outstanding, and together with any other Indebtedness incurred under this clause (18), the greater of (a) \$200,000,000 and (b) 36.0% of Consolidated EBITDA at the time of any incurrence pursuant to this clause (18) (it being understood that any Indebtedness incurred pursuant to this clause (18) shall cease to be deemed incurred or outstanding for purposes of this clause (18) but shall be deemed incurred for the purposes of Section 4.09(a) from and after the first date on which such Restricted Subsidiary could have incurred such Indebtedness under Section 4.09(a) without reliance on this clause (18));

(19) Indebtedness under a Receivables Facility;

(20) Indebtedness of the Company or any of the Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements in each case, incurred in the ordinary course of business;

(21) Indebtedness of the Company or any of the Restricted Subsidiaries undertaken in connection with cash management and related activities with respect to any Subsidiary or joint venture in the ordinary course of business;

(22) Indebtedness consisting of Indebtedness issued by the Company or any of the Restricted Subsidiaries to future, current or former officers, directors, employees or consultants (or their respective Immediate Family Members) of the Company, any of its Subsidiaries or any Parent Entity, in each case to finance the purchase or redemption of Equity Interests of the Company or any Parent Entity to the extent described in clause (4) of Section 4.07(b);

(23) Indebtedness representing deferred compensation to employees, consultants or independent contractors of the Company (or any Parent Entity) or any Restricted Subsidiary incurred in the ordinary course of business or any acquisition or Investment not prohibited under the terms of this Indenture;

(24) (a) Indebtedness in respect of Margin Lines of Credit and (b) Indebtedness arising in connection with securities lending arrangements entered into in the ordinary course of business;

(25) the incurrence of Indebtedness arising out of any Permitted Sale and Lease-Back Transaction;

(26) Indebtedness incurred or Disqualified Stock issued by the Company or Indebtedness incurred or Disqualified Stock or Preferred Stock issued by any Restricted Subsidiary, in each case, to the extent that the net proceeds thereof are promptly deposited with the Trustee to defease or satisfy and discharge the Notes in accordance with this Indenture; and

(27) to the extent constituting Indebtedness, all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (1) through (26) above.

(c) For purposes of determining compliance with this Section 4.09:

(1) in the event that an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) at any time, whether at the time of incurrence or issuance or upon the application of all or a portion of the proceeds thereof or subsequently, meets the criteria of more than one of the categories of permitted Indebtedness, Disqualified Stock or Preferred Stock described in clauses (1) through (26) of Section 4.09(b) or is entitled to be incurred pursuant to Section 4.09(a), the Company, in its sole discretion, will be entitled to divide, classify, re-divide or reclassify such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) and shall only be required to include the amount and type of such Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) in Section 4.09(a) or in one of the clauses of Section 4.09(b); provided that all Indebtedness outstanding under the Senior Credit Agreement on the Issue Date shall be treated as incurred on the Issue Date under clause (1) of Section 4.09(b); and

(2) availability and utilization of any category of financial ratio based exceptions, thresholds and baskets shall first be calculated without giving effect to amounts to be utilized under any other category of exceptions, thresholds and baskets at such time of determination (including at the time of any initial division and classification and any later re-divisions and reclassifications) and thereafter, availability and utilization of any category of exceptions, thresholds and baskets that are not financial ratio based shall be calculated.

Accrual of interest or dividends, the accretion of accreted value, the accretion or amortization of original issue discount and the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock will be deemed to not be an incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this covenant. Any Indebtedness, Disqualified Stock and Preferred Stock incurred or issued to refinance Indebtedness, Disqualified Stock or Preferred Stock incurred pursuant to clauses (1), (12)(b) or (18) above shall be permitted to include additional Indebtedness, Disqualified Stock or Preferred Stock incurred to pay accrued but unpaid interest and dividends and to pay premiums (including tender premiums), penalties and similar amounts, defeasance costs, underwriting costs and fees and expenses (including original issue discount, upfront fees or similar fees) incurred in connection with such refinancing (including with respect to such new Indebtedness, Disqualified Stock or Preferred Stock).

For purposes of determining compliance with any U.S. dollar-denominated restriction on the incurrence of Indebtedness or issuance of Disqualified Stock or Preferred Stock, the U.S. Dollar Equivalent principal amount of Indebtedness, Disqualified Stock or

Preferred Stock denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness, Disqualified Stock or Preferred Stock was incurred or issued, (or, in the case of revolving credit Indebtedness, the date such Indebtedness was first committed or first incurred (whichever yields the lower U.S. Dollar Equivalent)); provided that if such Indebtedness is incurred or Disqualified Stock or Preferred Stock is issued, to extend, replace, refund, renew, defease or refinance other Indebtedness denominated in a foreign currency, and such extension, replacement, refunding, renewal, defeasance or refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such extension, replacement, refunding, renewal, defeasance or refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount or liquidation preference, as applicable, of such refinancing Indebtedness, Disqualified Stock or Preferred Stock does not exceed (i) the principal amount or liquidation preference, as applicable, of such Indebtedness, Disqualified Stock or Preferred Stock being extended, replaced, refunded, renewed, defeased or refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums (including tender premiums), penalties and similar amounts, defeasance costs, accrued interest and dividends, underwriting costs and fees and expenses (including original issue discount, upfront fees or similar fees) and other costs and expenses incurred in connection with such refinancing (including with respect to such new Indebtedness, Disqualified Stock or Preferred Stock).

The principal amount or liquidation preference, as applicable, of any Indebtedness incurred or Disqualified Stock or Preferred Stock issued to refinance other Indebtedness, Disqualified Stock or Preferred Stock, if incurred or issued in a different currency from the Indebtedness, Disqualified Stock or Preferred Stock, as applicable, being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness, Disqualified Stock or Preferred Stock is denominated that is in effect on the date of such refinancing.

The Company shall not, and shall not permit any Guarantor to, directly or indirectly, incur any Indebtedness (including Acquired Indebtedness) that is contractually subordinated in right of payment to any Indebtedness of the Company or such Guarantor, as the case may be, unless such Indebtedness is expressly subordinated in right of payment to the Notes or such Guarantor's Guarantee to the extent and in the same manner as such Indebtedness is contractually subordinated to other Indebtedness of the Company or such Guarantor, as the case may be.

For the purposes of this Indenture, Indebtedness that is unsecured is not deemed to be subordinated or junior to Secured Indebtedness merely because it is unsecured, and Indebtedness is not deemed to be subordinated or junior to any other Indebtedness merely because it has a junior priority lien with respect to the same collateral or because it is secured by different collateral or issued or guaranteed by other obligors.



Section 4.10 Asset Sales.

(a) The Company shall not, and shall not permit any Restricted Subsidiary to, consummate, directly or indirectly, an Asset Sale, unless:

(1) the Company or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the fair market value (as determined at the time of contractually agreeing to such sale) of the assets sold or otherwise disposed of; and

(2) except in the case of a Permitted Asset Swap, at least 75% of the consideration for such Asset Sale, together with all other Asset Sales since the Issue Date (on a cumulative basis) received by the Company and the Restricted Subsidiaries, is in the form of Cash Equivalents.

(b) Within 450 days after the receipt of any Net Proceeds of any Asset Sale, the Company or such Restricted Subsidiary, at its option, may apply the Net Proceeds from such Asset Sale,

(1) to permanently reduce:

(a) Obligations under the Senior Credit Agreement, and to correspondingly reduce commitments with respect thereto;

(b) Obligations under Senior Indebtedness of the Company or a Guarantor that is secured by a Lien, which Lien is permitted by this Indenture, and to correspondingly reduce commitments with respect thereto;

(c) Obligations under the Notes or any other Senior Indebtedness (and, in the case of other Senior Indebtedness, to correspondingly reduce commitments with respect thereto, if applicable) or make an offer to purchase the Notes or such other Senior Indebtedness; provided that, if the Company or any Restricted Subsidiary shall so repay or make an offer to purchase any Senior Indebtedness other than the Notes, the Company shall either (A) reduce Obligations under the Notes on a pro rata basis by, at its option, (i) redeeming Notes as provided under Section 3.07, or (ii) purchasing Notes through open-market purchases or in privately negotiated transactions at market prices (which may be below par), or (B) make an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all Holders to purchase their Notes, on a ratable basis with such other Senior Indebtedness for no less than 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, thereon up to the principal amount of Notes to be repurchased; or

(d) Indebtedness of a Restricted Subsidiary that is not a Guarantor, other than Indebtedness owed to the Company or another Restricted Subsidiary; or

(2) to make (a) an Investment in any one or more businesses; provided that such Investment in any business is in the form of the acquisition of Capital Stock and results in the Company or a Restricted Subsidiary, as the case may be, owning an amount of the Capital Stock of such business such that it constitutes or continues to constitute a Restricted Subsidiary, (b) capital expenditures or (c) acquisitions of other assets that, in each of (a), (b) and (c), are either (i) used or useful in a Similar Business or (ii) replace in whole or in part the businesses or assets that are the subject of such Asset Sale;

provided that, in the case of clause (2) in this Section 4.10(b), a binding commitment shall be treated as a permitted application of the Net Proceeds from the date of such commitment so long as the Company or Restricted Subsidiary enters into such commitment with the good faith expectation that such Net Proceeds shall be applied to satisfy such commitment within the later of such 450th day and 180 days of such commitment (an “Acceptable Commitment”); and, in the event any Acceptable Commitment is later cancelled or terminated for any reason before the Net Proceeds are applied in connection therewith, then such Net Proceeds shall constitute Excess Proceeds unless the Company or Restricted Subsidiary enters into another Acceptable Commitment (a “Second Commitment”) within 180 days of such cancellation or termination (or, if later, 450 days after receipt of such Net Proceeds); provided further that if any Second Commitment is later cancelled or terminated for any reason before such Net Proceeds are applied, then such Net Proceeds shall constitute Excess Proceeds.

(c) Any Net Proceeds from an Asset Sale (other than any amounts excluded from this Section 4.10 pursuant to Section 4.10(g)) that are not invested or applied as provided and within the time period set forth in Section 4.10(b) shall be deemed to constitute “Excess Proceeds.” When the aggregate amount of Excess Proceeds exceeds \$75,000,000 (the “Excess Proceeds Threshold”), the Company shall make an offer to all Holders, and, if and to the extent required by the terms of any Indebtedness that is pari passu with the Notes (“Pari Passu Indebtedness”), to the holders of such Pari Passu Indebtedness (an “Asset Sale Offer”), to purchase the maximum aggregate principal amount of the Notes and such Pari Passu Indebtedness that is equal to \$2,000 or an integral multiple of \$1,000 in excess thereof that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof (or accreted value thereof, if less), plus accrued and unpaid interest, if any, to, but excluding, the date fixed for the closing of such offer, and in the case of any Pari Passu Indebtedness, at the offer price required by the terms thereof but not to exceed 100.0% of the principal amount thereof, plus accrued and unpaid interest, if any, in accordance with the procedures set forth in this Indenture and the agreement governing such Pari Passu Indebtedness. The Company shall commence an Asset Sale Offer with respect to Excess Proceeds within fifteen (15) Business Days after the date that Excess Proceeds exceed the Excess Proceeds Threshold by sending the notice required pursuant to the terms of this Indenture, with a copy to the Trustee or otherwise in accordance with the procedures of DTC. The Company may satisfy the foregoing obligation with respect to such Net Proceeds from an Asset Sale by making an Asset Sale Offer with respect to all or a portion of the available Net Proceeds (the “Advance Portion”) in advance of being required to do so by this Indenture (the “Advance Offer”).

(d) To the extent that the aggregate principal amount (or accreted value, as applicable) of Notes and such Pari Passu Indebtedness tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds (or, in the case of an Advance Offer, the Advance Portion), the Company may use any remaining Excess Proceeds (or, in the case of an Advance Offer, the Advance Portion) for such amount offered in any manner not prohibited by this Indenture and the obligations of the Company and its Restricted Subsidiaries described in this Section 4.10 shall be deemed to have been satisfied to the extent of any such Asset Sale Offer and Advance Offer so made regardless of the amount tendered or surrendered pursuant thereto. If the

aggregate principal amount (or accreted value, as applicable) of Notes or the Pari Passu Indebtedness surrendered by such Holders and holders thereof exceeds the amount of Excess Proceeds (or, in the case of an Advance Offer, the Advance Portion), the Company shall select the Notes and such Pari Passu Indebtedness to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or such Pari Passu Indebtedness tendered. Upon completion of any such Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero, but in the case of an Advance Offer, the amount of Net Proceeds the Company is offering to apply in such Advance Offer shall be excluded in subsequent calculations of Excess Proceeds. Additionally, upon consummation or expiration of any Asset Sale Offer or Advance Offer, any remaining Net Proceeds shall not be deemed Excess Proceeds and the Company and its Restricted Subsidiaries may use such Net Proceeds for any purpose not otherwise prohibited under this Indenture.

(e) Pending the final application of any Net Proceeds pursuant to this Section 4.10, the holder of such Net Proceeds may apply such Net Proceeds temporarily to reduce Indebtedness outstanding under a revolving credit facility (including under the Senior Credit Agreement) or otherwise invest such Net Proceeds in any manner not prohibited by this Indenture.

(f) For purposes of this Section 4.10, the following are deemed to be Cash Equivalents:

(1) any liabilities (as shown on the Company's, or such Restricted Subsidiary's, most recent balance sheet or in the notes thereto, or if incurred or accrued subsequent to the date of such balance sheet, such liabilities that would have been shown on the Company's or such Restricted Subsidiary's balance sheet or in the footnotes thereto if such incurrence or accrual had taken place on or prior to the date of such balance sheet, as determined in good faith by the Company) of the Company or any Restricted Subsidiary, other than liabilities that are by their terms subordinated to the Notes, that are assumed by the transferee of any such assets (or are otherwise extinguished in connection with the transactions relating to such Asset Sale) and for which the Company and all Restricted Subsidiaries have been validly released by all creditors in writing;

(2) any securities, notes or other obligations received by the Company or such Restricted Subsidiary from such transferee that are converted by the Company or such Restricted Subsidiary into Cash Equivalents (to the extent of the Cash Equivalents received) within 180 days following the closing of such Asset Sale; and

(3) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in such Asset Sale having an aggregate fair market value, taken together with all other Designated Non-cash Consideration received pursuant to this clause (3) that is at that time outstanding, not to exceed the greater of (x) \$100,000,000 and (y) 18.0% of Consolidated EBITDA at the time of the receipt of such Designated Non-cash Consideration, with the fair market value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value.

(g) Notwithstanding any other provisions of this Section 4.10, (i) to the extent that any or all of the Net Proceeds of any Asset Sale by a Foreign Subsidiary (a "Foreign Disposition") is prohibited or delayed by applicable local law, an amount equal to the portion of such Net Proceeds so affected will not be required to be applied in compliance with this Section 4.10, and such amounts may be retained by the applicable Foreign Subsidiary; provided that if at any time within one year following the date on which the respective payment would otherwise have been required, such repatriation of any of such affected Net Proceeds is permitted under the applicable local law, an amount equal to such amount of Net Proceeds so permitted to be repatriated will be promptly applied (net of any taxes, costs or expenses that would be payable or reserved against if such amounts were actually repatriated whether or not they are repatriated) in compliance with this Section 4.10 and (ii) to the extent that the Company has determined in good faith that repatriation of any or all of the Net Proceeds of any Foreign Disposition would result in material adverse tax consequences (which, for the avoidance of doubt, includes, but is not limited to, any material tax liability as a result of a deemed dividend pursuant to Section 956 of the Code or a withholding tax) to the Company, any of its Subsidiaries or any Parent Entity, the Net Proceeds so affected may be retained by the applicable Foreign Subsidiary and an amount equal to such Net Proceeds will not be required to be applied in compliance with this Section 4.10. The non-application of any prepayment amounts as a consequence of the foregoing provisions will not, for the avoidance of doubt, constitute a Default or an Event of Default. For the avoidance of doubt, nothing in this Indenture shall be construed to require any Subsidiary to repatriate cash.

#### Section 4.11 Transactions with Affiliates.

(a) The Company shall not, and shall not permit any of the Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each of the foregoing, an "Affiliate Transaction") involving aggregate payments or consideration in excess of \$50,000,000, unless:

(1) such Affiliate Transaction is on terms that are not materially less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm's-length basis; and

(2) the Company delivers to the Trustee with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate payments or consideration in excess of \$75,000,000, a resolution adopted by the majority of the Board of the Company approving such Affiliate Transaction and set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with clause (1) of this Section 4.11(a).

(b) The provisions of Section 4.11(a) shall not apply to the following:

(1) (A) transactions between or among the Company or any of the Restricted Subsidiaries (or any entity that becomes a Restricted Subsidiary as a result of such

transaction) and (B) any merger, consolidation or amalgamation of the Company and any Parent Entity; provided that such Parent Entity shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Capital Stock of the Company and liabilities and assets that the Company would be permitted to have if incurred or acquired on the date of such merger and such merger, amalgamation or consolidation is otherwise consummated in compliance with the terms of this Indenture and effected for a bona fide business purpose;

(2) Restricted Payments permitted by Section 4.07, any transaction specifically excluded from clauses (I) and (III) of the definition of “Restricted Payments” in Section 4.07(a) and “Permitted Investments”;

(3) the payment of reasonable and customary fees and compensation paid to, and benefits, indemnities and reimbursements and employment and severance arrangements provided on behalf of, or for the benefit of, former, current or future officers, directors, employees or consultants (or their respective Immediate Family Members) of the Company, any of the Restricted Subsidiaries or any Parent Entity;

(4) transactions in which the Company or any of the Restricted Subsidiaries, as the case may be, delivers to the Trustee a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or stating that the terms are not materially less favorable to the Company or its relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person on an arm’s-length basis;

(5) any agreement or arrangement as in effect as of the Issue Date, or any amendment thereto (so long as any such amendment is not disadvantageous in any material respect to the Holders when taken as a whole as compared to the applicable agreement as in effect on the Issue Date as determined by the Company in good faith);

(6) any contribution to the capital stock of the Company;

(7) transactions with customers, clients, suppliers, contractors, joint venture partners or purchasers or sellers of goods or services that are Affiliates, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Indenture which are fair to the Company and the Restricted Subsidiaries, in the reasonable determination of the Company, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

(8) the issuance, sale or transfer of (a) Equity Interests (other than Disqualified Stock) of the Company to any Person and the granting and performing of customary rights (including registration rights) in connection therewith, and any contribution to the capital of the Company and (b) directors’ qualifying shares and shares issued to foreign nationals as required by applicable law;

- (9) transactions effected as part of any Receivables Facility that are otherwise permitted under this Indenture;
- (10) payments or loans (or cancellation of loans) to employees, directors or consultants of the Company, any of the Restricted Subsidiaries or any Parent Entity and employment agreements, stock option plans and other similar arrangements with such employees, directors or consultants (or their respective Immediate Family Members) which, in each case, are approved by the Company in good faith;
- (11) any guarantee by any Parent Entity of Indebtedness of the Company or any Restricted Subsidiary that was permitted by this Indenture;
- (12) payments to any future, current or former employee, director, officer, manager or consultant (or their respective Immediate Family Members) of the Company, any of their respective Subsidiaries or any Parent Entity pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement; and any employment agreements, stock option plans and other compensatory arrangements (and any successor plans thereto) and any health, disability and similar insurance or benefit plans or supplemental executive retirement benefit plans or arrangements with any such employees, directors, officers, managers or consultants (or their respective Immediate Family Members) that are, in each case, approved by the Company in good faith;
- (13) transactions with a Person that is an Affiliate of the Company (excluding any Unrestricted Subsidiary) solely because the Company or Restricted Subsidiary owns any Equity Interest in, or controls, such Person;
- (14) payments by the Company (and any Parent Entity) and their respective Subsidiaries pursuant to tax sharing agreements among the Company (and any such Parent Entity) and their respective Subsidiaries on customary terms and shall not exceed the excess (if any) of the amount of taxes they would have paid on a stand-alone basis over the amount of such taxes they actually pay directly to governmental authorities;
- (15) any lease entered into between the Company or any Restricted Subsidiary, as lessee or lessor, and any Affiliate of the Company, as lessor or lessee, and the transactions pursuant to that lease, which is approved by the Company in good faith;
- (16) intellectual property licenses in the ordinary course of business;
- (17) any transaction between the Company or any Restricted Subsidiary and any Person that would constitute an Affiliate Transaction solely because a director of which is also a director of the Company or any Parent Entity; provided, however, that such director abstains from voting as a director of the Company or such Parent Entity, as the case may be, on any matter including such other Person;
- (18) pledges of Equity Interests of Unrestricted Subsidiaries;

(19) payments to or from, and transactions with, any joint venture in the ordinary course of business (including, without limitation, any cash management activities related thereto);

(20) the existence of, or the performance by the Company or any of its Restricted Subsidiaries of its obligations under the terms of, any equityholders, investor rights or similar agreement (including any registration rights agreement or purchase agreement related thereto) to which it (or any Parent Entity) is a party as of the Issue Date and any amendment thereto and any similar agreements which it (or any Parent Entity) may enter into thereafter; provided that the existence of, or the performance by the Company or any of its Restricted Subsidiaries (or such Parent Entity) of obligations under any future amendment to any such existing agreement or arrangement or under any similar agreement or arrangement entered into after the Issue Date shall only be permitted by this clause (20) to the extent that the terms of any such amendment or new agreement or arrangement are not otherwise, when taken as a whole, more disadvantageous in any material respect in the good faith judgment of the Company to the Holders than those in effect on the Issue Date; and

(21) transactions permitted by, and complying with, the provisions of the covenant described under Section 5.01 solely for the purpose of (a) forming a holding company or (b) reincorporating the Company in a new jurisdiction.

#### Section 4.12 Liens.

The Company shall not, and shall not permit any Guarantor to, directly or indirectly, create, incur, assume or suffer to exist any Lien (except Permitted Liens) (each, an "Initial Lien") that secures Obligations under any Indebtedness on any asset or property of the Company or any Guarantor, or any income or profits therefrom, or assign or convey any right to receive income therefrom, unless:

- (1) in the case of Initial Liens securing Subordinated Indebtedness, the Notes and related Guarantees are secured by a Lien on such property, assets or proceeds that is senior in priority to such Initial Liens; or
- (2) in all other cases, the Notes or the Guarantees are equally and ratably secured.

Any Lien created for the benefit of the Holders pursuant to this Section 4.12 shall provide by its terms that such Lien shall be automatically and unconditionally be released and discharged upon the release and discharge of the Initial Lien that gave rise to the obligation to so secure the Notes (other than a release or discharge resulting from the enforcement of remedies in respect of such Initial Lien or obligation secured by such Initial Lien).

The expansion of Liens by virtue of the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest or dividends in the form of Indebtedness and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will, in each case, not be deemed to be an incurrence of Liens for purposes of this Section 4.12.

Section 4.13 Corporate Existence.

Subject to Article 5, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its company existence, and the corporate, partnership, limited liability company or other existence of each of the Restricted Subsidiaries, in accordance with the respective organizational documents (as the same may be amended, supplemented or otherwise modified from time to time) of the Company or any such Restricted Subsidiary; provided that the Company shall not be required to preserve the corporate, partnership, limited liability company or other existence of any of the Restricted Subsidiaries, if the Company in good faith shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and the Restricted Subsidiaries, taken as a whole.

Section 4.14 Offer to Repurchase Upon Change of Control.

(a) If a Change of Control occurs, unless, prior to the time the Company is required to make a Change of Control Offer (as defined below), the Company has previously or concurrently mailed or transmitted electronically a redemption notice with respect to all the outstanding Notes as described under Section 3.07 or Section 11.01, the Company shall make an offer to purchase all of the Notes pursuant to the offer described below (the "Change of Control Offer") at a price in cash (the "Change of Control Payment") equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest, if any, to, but excluding, the date of purchase, subject to the right of Holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date falling on or prior to the Change of Control Payment Date. Within 30 days following any Change of Control, the Company shall send notice of such Change of Control Offer by first-class mail or electronic delivery, with a copy to the Trustee, to each Holder to the address of such Holder appearing in the security register or otherwise in accordance with the procedures of DTC, with the following information:

- (1) that a Change of Control Offer is being made pursuant to this Section 4.14 and that all Notes properly tendered pursuant to such Change of Control Offer will be accepted for payment by the Company;
- (2) the purchase price and the purchase date, which will be no earlier than 20 Business Days nor later than 60 days from the date such notice is mailed or transmitted electronically (the "Change of Control Payment Date"), except in the case of a conditional Change of Control Offer made in advance of a Change of Control as described below;
- (3) that any Note not properly tendered will remain outstanding and continue to accrue interest;
- (4) that unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;
- (5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the paying agent



specified in the notice or otherwise in accordance with DTC procedures, at the address specified in the notice prior to the close of business on the third (3<sup>rd</sup>) Business Day preceding the Change of Control Payment Date;

(6) that Holders shall be entitled to withdraw their tendered Notes and their election to require the Company to purchase such Notes; provided that the paying agent receives, not later than the close of business on the second Business Day prior to the expiration time of the Change of Control Offer, a facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased and any other information as may be required by the paying agent;

(7) that if the Company is redeeming less than all of the Notes, the Holders of the remaining Notes will be issued new Notes and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered. The unpurchased portion of the Notes must be in minimum denominations \$2,000 or an integral multiple of \$1,000 in excess thereof;

(8) if such notice is delivered prior to the occurrence of a Change of Control, stating that the Change of Control Offer is conditional on the occurrence of such Change of Control, and, if applicable, stating that, in the Company's discretion, the Change of Control Payment Date may be delayed until such time as any or all applicable conditions shall be satisfied, or that such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the Change of Control Payment Date, or by the Change of Control Payment Date as so delayed; and

(9) the other instructions, as determined by the Company, consistent with this Section 4.14, that a Holder must follow.

(b) On the Change of Control Payment Date, the Company shall, to the extent permitted by law,

(1) accept for payment all Notes issued by them or portions thereof properly tendered pursuant to the Change of Control Offer,

(2) deposit with the Paying Agent an amount equal to the aggregate Change of Control Payment in respect of all Notes or portions thereof so tendered, and

(3) deliver, or cause to be delivered, to the Trustee for cancellation the Notes so accepted together with an Officer's Certificate to the Trustee stating that such Notes or portions thereof have been tendered to and purchased by the Company.

(c) The notice, if mailed or delivered in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Holder receives such notice. If (i) the notice is mailed or delivered in a manner herein provided and (ii) any Holder fails to receive such notice or a Holder receives such notice but it is defective, such Holder's failure to receive such notice or such defect shall not affect the validity of the proceedings for the purchase of the Notes as to all other Holders that properly received such notice without defect.

(d) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws or regulations are applicable in connection with the repurchase of Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 4.14, the Company shall comply with the applicable securities laws and regulations and shall not be deemed to have breached their obligations under this Section 4.14 by virtue thereof.

(e) The Company shall not be required to make a Change of Control Offer if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.14 applicable to a Change of Control Offer made by the Company and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer. Notwithstanding anything to the contrary herein, a Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.

(f) Other than as specifically provided in this Section 4.14, any purchase pursuant to this Section 4.14 shall be made pursuant to the provisions of Sections 3.02, 3.05, 3.06 and 3.07(e).

#### Section 4.15 Additional Guarantees.

The Company will not permit any of its Wholly-Owned Domestic Subsidiaries that is a Restricted Subsidiary, or any non-Wholly-Owned Domestic Subsidiary that is a Restricted Subsidiary if such non-Wholly-Owned Domestic Subsidiary guarantees any other Capital Markets Indebtedness of the Company or any Guarantor or becomes an obligor under any Credit Facility permitted under clause (1) of Section 4.09(b) (in each case, other than a Guarantor) to (x) guarantee the payment of any other Capital Markets Indebtedness of the Company or any other Guarantor or Indebtedness under any Credit Facility permitted under clause (1) of Section 4.09(b) or (y) become an obligor under any Credit Facility permitted under clause (1) of Section 4.09(b), in each case, unless such Subsidiary within 45 days executes and delivers a supplemental indenture to this Indenture providing for a Guarantee by such Subsidiary, except that with respect to clause (x) above only:

(1) if such Indebtedness is by its express terms subordinated in right of payment to the Notes or such Guarantor's Guarantee, any such guarantee by such Restricted Subsidiary with respect to such Indebtedness shall be subordinated in right of payment to such Guarantee substantially to the same extent as such Indebtedness is subordinated to the Notes; and

(2) such Restricted Subsidiary waives and will not in any manner whatsoever claim or take the benefit or advantage of, any right of reimbursement, indemnity or subrogation or any other right against the Company or any other Restricted Subsidiary as a result of any payment by such Restricted Subsidiary under its Guarantee;

provided that this Section 4.15 shall not be applicable to any guarantee of any Restricted Subsidiary that existed at the time such Person became a Restricted Subsidiary and was not incurred in connection with, or in contemplation of, such Person becoming a Restricted Subsidiary. The Company may elect, in its sole discretion, to cause any Subsidiary that is not otherwise required to be a Guarantor to become a Guarantor, in which case such Subsidiary shall not be required to comply with the 45 day period described in clause (1) or (2) above and such Guarantee may be released at any time in the Company's sole discretion, unless such Subsidiary is otherwise required by the applicable terms of this Indenture to provide a Guarantee.

Each Guarantee will also be released in accordance with Section 10.06.

#### Section 4.16 Discharge and Suspension of Covenants.

(a) If on any date (i) the Notes have Investment Grade Ratings from both Rating Agencies and (ii) no Default or Event of Default has occurred and is continuing under this Indenture, then, beginning on that day, (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a "Covenant Suspension Event") and the date thereof being referred to as the "Suspension Date"), then (A) the Guarantees will be automatically suspended and no longer be applicable until the occurrence of the Reversion Date (as defined below) (and will be automatically reinstated upon the occurrence of the Reversion Date) and (B) the Company and the Restricted Subsidiaries will not be subject to the following covenants: Section 4.07, Section 4.08, Section 4.09, Section 4.10, Section 4.11, Section 4.15, clause (4) of Section 5.01(a) and Section 5.01(c) (collectively, the "Suspended Covenants") until the occurrence of the Reversion Date.

(b) In the event that the Company and the Restricted Subsidiaries are not subject to the Suspended Covenants under this Indenture for any period of time as a result of the foregoing, and on any subsequent date (the "Reversion Date") one or both of the Rating Agencies withdraw their Investment Grade Rating or downgrade the rating assigned to the Notes from below an Investment Grade Rating, then the Company and the Restricted Subsidiaries shall thereafter again be subject to the Suspended Covenants with respect to future events.

(c) The period of time from and including the Suspension Date to (and excluding) the Reversion Date is referred to as the "Suspension Period"). Upon the occurrence of a Covenant Suspension Event, the amount of Excess Proceeds from Net Proceeds shall be reset at zero.

(d) Notwithstanding the foregoing, in the event of any reinstatement of the Suspended Covenants, no action taken or omitted to be taken by the Company or any of the Restricted Subsidiaries or events occurring prior to such reinstatement will give rise to a Default or Event of Default under this Indenture with respect to the Notes and no Default or Event of Default will be deemed to exist or have occurred as a result of any failure by the Company or any Restricted Subsidiary to comply with any of the Suspended Covenants during the Suspension Period; provided that (i) with respect to Restricted Payments made after any such

reinstatement, the amount of Restricted Payments made will be calculated as though Section 4.07 had been in effect prior to, but not during the Suspension Period, (ii) all Indebtedness incurred, or Disqualified Stock or Preferred Stock issued, during the Suspension Period will be classified to have been incurred or issued pursuant to clause (3) of Section 4.09(b), (iii) any Affiliate Transaction entered into after such reinstatement pursuant to an agreement entered into during any Suspension Period shall be deemed to be permitted pursuant to clause (5) of Section 4.11(b), (iv) any encumbrance or restriction on the ability of any Restricted Subsidiary that is not a Guarantor to take any action described in clauses (1) through (3) of Section 4.08(b) that becomes effective during any Suspension Period shall be deemed to be permitted pursuant to clause (1) of Section 4.08(b), (v) no Subsidiary of the Company shall be required to comply with the covenant described under Section 4.15 after such reinstatement with respect to any guarantee entered into by such Subsidiary during any Suspension Period; and (vi) all Investments made during the Suspension Period will be deemed to have been outstanding on the Issue Date, so that they are classified as Permitted Investments permitted under clause (5) of the definition of "Permitted Investments." No Subsidiaries shall be designated as Unrestricted Subsidiaries during any Suspension Period.

(e) During any Suspension Period, the Company and its Restricted Subsidiaries will be entitled to incur Liens to the extent provided for under Section 4.12 (including, without limitation, Permitted Liens) and any Permitted Liens that refer to one or more Suspended Covenants shall be interpreted as though such applicable Suspended Covenant(s) continued to be applicable during the Suspension Period (but solely for Section 4.12 and for no other covenant).

(f) Notwithstanding that the Suspended Covenants may be reinstated after the Reversion Date, (1) no Default, Event of Default or breach of any kind will be deemed to exist under this Indenture, the Notes or the Guarantees with respect to the Suspended Covenants, and none of the Company or any of its Subsidiaries will bear any liability for any actions taken or events occurring during the Suspension Period, or any actions taken at any time pursuant to any contractual obligation arising during a Suspension Period, in each case, as a result of a failure to comply with the Suspended Covenants during the Suspension Period (or, upon termination of the Suspension Period or after that time, based on any action taken or event that occurred during the Suspension Period) and (2) following a Reversion Date, the Company and each Restricted Subsidiary will be permitted, without causing a Default or Event of Default, to honor, comply with or otherwise perform any contractual commitments or obligations arising during any Suspension Period (that were permitted to be entered into at such time) and to consummate any transactions contemplated thereby.

(g) The Company shall notify the Trustee of the occurrence of any Covenant Suspension Event; provided that no such notification shall be a condition for the suspension of the Suspended Covenants to be effective; provided further that the Trustee shall be under no obligation to inform Holders of the occurrence of any Covenant Suspension Event.

ARTICLE 5

SUCCESSORS

Section 5.01 Merger, Consolidation or Sale of All or Substantially All Assets.

(a) The Company shall not consolidate or merge with or into or wind up into (whether or not the Company is the surviving corporation), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person unless:

(1) the Company is the surviving Person or the Person formed by or surviving any such consolidation, merger or wind-up (if other than the Company) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a Person organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (such Person, as the case may be, being herein called the "Successor Company"); provided that in the case where the Successor Company is not a corporation, a co-obligor of the Notes is a corporation;

(2) the Successor Company, if other than the Company, expressly assumes all the obligations of the Company under this Indenture and the Notes pursuant to supplemental indentures or other documents or instruments in form reasonably satisfactory to the Trustee;

(3) immediately after such transaction, no Default or Event of Default exists;

(4) immediately after giving pro forma effect to such transaction and any related financing transactions, as if such transactions had occurred at the beginning of the most recently ended Test Period,

(A) the Successor Company or the Company, as applicable, would be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.09(a), or

(B) the Fixed Charge Coverage Ratio for the Successor Company or the Company, as applicable, and the Restricted Subsidiaries would be equal to or greater than the Fixed Charge Coverage Ratio for the Company and the Restricted Subsidiaries immediately prior to such transaction;

(5) each Guarantor, unless it is the other party to the transactions described above, in which case Section 5.01(c) shall apply, shall have by supplemental indenture confirmed that its Guarantee shall apply to such Person's obligations under this Indenture and the Notes; and

(6) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indentures, if any, comply with this Indenture.

(b) The Successor Company shall succeed to, and be substituted for, the Company, as the case may be, under this Indenture, and the Notes and the Company will automatically be released and discharged from its obligations under this Indenture, the Guarantees and the Notes. Notwithstanding clauses (3) through (6) of Section 5.01(a) (which shall not apply to the following),

(1) any Restricted Subsidiary may consolidate with or merge into or transfer all or part of its properties and assets to the Company or any Restricted Subsidiary; and

(2) the Company may consolidate or merge with an Affiliate of the Company, as the case may be, solely for the purpose of reincorporating the Company in the United States, any state thereof, the District of Columbia or any territory thereof so long as the amount of Indebtedness of the Company and the Restricted Subsidiaries is not materially increased thereby.

(c) Subject to certain limitations described in this Indenture governing release of a Guarantor upon the sale, disposition or transfer of a Guarantor, no Guarantor shall, and the Company shall not permit any Guarantor to, consolidate or merge with or into or wind up into (whether or not the Guarantor is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets, in one or more related transactions, to any Person (other than the Company or another Guarantor or a 100% Non-Guarantor Pledgee) unless:

(1) (A) such Guarantor is the surviving Person or the Person formed by or surviving any such consolidation, merger or wind-up (if other than such Guarantor) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a Person organized or existing under the laws of the jurisdiction of organization of such Guarantor, as the case may be, or the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (such Guarantor or such Person, as the case may be, being herein called the "Successor Person");

(B) the Successor Person, if other than such Guarantor, expressly assumes all the obligations of such Guarantor under this Indenture and such Guarantor's related Guarantee pursuant to supplemental indentures or other documents or instruments in form reasonably satisfactory to the Trustee;

(C) immediately after such transaction, no Default or Event of Default exists; and

(D) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indentures, if any, comply with this Indenture;

(2) the transaction is made in compliance with Section 4.10; or

(3) in the case of assets comprised of Equity Interests of Subsidiaries that are not Guarantors, such Equity Interests are sold, assigned, transferred, leased, conveyed or otherwise disposed of to one or more Restricted Subsidiaries.

(d) Subject to certain limitations described in this Indenture, the Successor Person (if other than such Guarantor) shall succeed to, and be substituted for, such Guarantor under this Indenture and such Guarantor's Guarantee, and such Guarantor will automatically be released and discharged from its obligations under this Indenture and the Guarantor's Guarantee. Notwithstanding the foregoing, any Guarantor may (i) consolidate or merge with or wind up into or transfer all or part of its properties and assets to the Company or another Guarantor or a 100% Non-Guarantor Pledgee, (ii) merge with an Affiliate of the Company solely for the purpose of reincorporating or reorganizing the Guarantor in the United States, any state thereof, the District of Columbia or any territory thereof so long as the amount of Indebtedness of the Company and the Restricted Subsidiaries is not increased thereby and so long as the Successor Person (if not such Guarantor) assumes all of such Guarantor's obligations under its Guarantee in connection with such reincorporation or reorganization, (iii) convert into a Person organized or existing under the laws of the jurisdiction of organization of such Guarantor and so long as the Successor Person (if not such Guarantor) assumes all of such Guarantor's obligations under its Guarantee in connection with such reorganization or (iv) liquidate or dissolve or change its legal form if the Company determines in good faith that such action is in the best interests of the Company and is not materially disadvantageous to the Holders.

(e) Notwithstanding anything to the contrary in this Section 5.01, the Company may contribute Capital Stock of any or all of its Subsidiaries to any Guarantor.

#### Section 5.02 Successor Person Substituted.

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Company in accordance with Section 5.01, the successor Person formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, lease, conveyance or other disposition, the provisions of this Indenture referring to the Company shall refer instead to the successor Person and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; provided that the predecessor Company shall be relieved from the obligation to pay the principal of and interest, if any, on the Notes and shall no longer be subject to this Indenture (except in the case of a lease of substantially all of the assets of the Company).

## ARTICLE 6

### DEFAULTS AND REMEDIES

#### Section 6.01 Events of Default.

- (a) An "Event of Default" wherever used herein, means any one of the following events:
- (1) default in payment when due and payable, upon redemption, acceleration or otherwise, of principal of, or premium, if any, on the Notes;

- (2) default for 30 days or more in the payment when due of interest on or with respect to the Notes;
- (3) failure by the Company or any Guarantor for 60 days after receipt of written notice given by the Holders of not less than 30% in principal amount of the outstanding Notes (or the Trustee at the direction of such Holders) to comply with any of its obligations, covenants or agreements (other than a default referred to in clause (1) or (2) of this Section 6.01(a)) contained in this Indenture or the Notes; provided that in the case of a failure to comply with the provisions of Section 4.03, such period of continuance of such default or breach shall be 120 days after written notice described in this clause (3) has been given;
- (4) default under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any of the Restricted Subsidiaries or the payment of which is guaranteed by the Company or any of the Restricted Subsidiaries (other than Indebtedness owed to the Company or a Restricted Subsidiary), whether such Indebtedness or guarantee now exists or is created after the Issue Date, if both:
- (i) such default either results from the failure to pay any principal of such Indebtedness at its stated final maturity (after giving effect to any applicable grace periods) or relates to an obligation other than the obligation to pay principal of any such Indebtedness at its stated final maturity and results in the holder or holders of such Indebtedness causing such Indebtedness to become due prior to its stated maturity; and
  - (ii) the principal amount of such Indebtedness, together with the principal amount of any other such Indebtedness in default for failure to pay principal at its stated final maturity (after giving effect to any applicable grace periods), or the maturity of which has been so accelerated, aggregate \$75,000,000 or more at any one time outstanding;
- (5) failure by the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that (determined as of the most recent consolidated financial statements of the Company for a fiscal quarter end provided as required by Section 4.03) together would constitute a Significant Subsidiary) to pay final judgments aggregating in excess of \$75,000,000 (net of amounts covered by insurance policies issued by reputable third party insurance companies), which final judgments remain unpaid, undischarged and unstayed for a period of more than 60 days after such judgment becomes final, and in the event such judgment is covered by insurance, an enforcement proceeding has been commenced by any creditor upon such judgment or decree which is not promptly stayed;
- (6) the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that (determined as of the most recent consolidated financial statements of



the Company for a fiscal quarter end provided as required by Section 4.03) together would constitute a Significant Subsidiary), pursuant to or within the meaning of any Bankruptcy Law:

- (i) commences proceedings to be adjudicated bankrupt or insolvent;
  - (ii) consents to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under applicable Bankruptcy Law;
  - (iii) consents to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of it or for all or substantially all of its property;
  - (iv) makes a general assignment for the benefit of its creditors; or
  - (v) generally is not paying its debts as they become due;
- (7) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
- (i) is for relief against the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that (determined as of the most recent consolidated financial statements of the Company for a fiscal quarter end provided as required by Section 4.03) together would constitute a Significant Subsidiary) in a proceeding in which the Company or any Significant Subsidiary is to be adjudicated bankrupt or insolvent;
  - (ii) appoints a receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that (determined as of the most recent consolidated financial statements of the Company for a fiscal quarter end provided as required by Section 4.03) together would constitute a Significant Subsidiary) or for all or substantially all of the property of the Company or any Significant Subsidiary; or
  - (iii) orders the liquidation of the Company or any Significant Subsidiary (or any group of Restricted Subsidiaries that (determined as of the most recent consolidated financial statements of the Company for a fiscal quarter end provided as required by Section 4.03) together would constitute a Significant Subsidiary);

and the order or decree remains unstayed and in effect for 60 consecutive days; or

- (8) the Guarantee of any Significant Subsidiary (or any group of Restricted Subsidiaries that (determined as of the most recent consolidated financial statements of the Company for a fiscal quarter end provided as required by Section 4.03) together would constitute a Significant Subsidiary) shall for any reason (except as contemplated by the express terms thereof or this Indenture) cease to be in full force and effect or be

declared null and void or any Officer of any Guarantor that is a Significant Subsidiary (or the Officers of any group of Restricted Subsidiaries that together (determined as of the most recent consolidated financial statements of the Company for a fiscal quarter end provided as required pursuant to Section 4.03) would constitute a Significant Subsidiary), as the case may be, denies in writing that it has any further liability under its Guarantee or gives written notice to such effect, other than by reason of the termination of this Indenture or the release of any such Guarantee in accordance with this Indenture.

(b) In the event of any Event of Default specified in clause (4) of Section 6.01(a), such Event of Default and all consequences thereof (excluding any resulting payment default, other than as a result of acceleration of the Notes) shall be annulled, waived and rescinded, automatically and without any action by the Trustee or the Holders, if within 30 days after such Event of Default arose:

- (1) the Indebtedness or guarantee that is the basis for such Event of Default has been discharged; or
- (2) holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default; or
- (3) the default that is the basis for such Event of Default has been cured, waived or is no longer continuing.

#### Section 6.02 Acceleration.

If any Event of Default (other than an Event of Default specified in clause (6) or (7) of Section 6.01(a)) occurs and is continuing under this Indenture, the Holders of at least 30% in principal amount of the then total outstanding Notes (or the Trustee at the direction of such Holders) may, by written notice to the Company, declare the principal, premium, if any, interest and any other monetary obligations on all the then outstanding Notes to be due and payable immediately. Upon the effectiveness of such declaration, such principal and interest shall be due and payable immediately.

Notwithstanding the foregoing, in the case of an Event of Default arising under clause (6) or (7) of Section 6.01(a), all outstanding Notes shall be due and payable immediately without further action or notice.

#### Section 6.03 Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee (with a copy to the Company; provided that any waiver or rescission under this Section 6.04 shall be valid and binding notwithstanding the failure to provide a copy of such notice to the Company) may on behalf of the Holders of all of the Notes waive any existing Default and its consequences hereunder, except a continuing Default in the payment of the principal of, premium, if any, or interest on, any Note held by a non-consenting Holder and rescind any acceleration and its consequences; provided that such rescission would not conflict with any judgment of a court of competent jurisdiction. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 Control by Majority.

Holders of not less than a majority in principal amount of the then total outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Trustee, however, may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines is unduly prejudicial to the rights of any other Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such direction is unduly prejudicial to such Holders) or that would involve the Trustee in personal liability.

Section 6.06 Limitation on Suits.

Subject to Section 6.07, no Holder may pursue any remedy with respect to this Indenture or the Notes unless:

- (1) such Holder has previously given the Trustee written notice that an Event of Default is continuing;
- (2) Holders of at least 30% in principal amount of the then outstanding Notes have requested the Trustee to pursue the remedy;
- (3) Holders have offered and, if requested, provided to the Trustee indemnity or security satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee has not complied with such request within 60 days after the receipt thereof and the offer of security or indemnity; and
- (5) Holders of a majority in principal amount of the then outstanding Notes have not given the Trustee a direction inconsistent with such written request within such 60-day period.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder.

Section 6.07 Rights of Holders to Bring Suit.

Notwithstanding any other provision of this Indenture, the right of any Holder to bring suit for the enforcement of any payment of principal, premium if any, and interest on the Notes (including in connection with an Asset Sale Offer or a Change of Control Offer) on or after the respective due date expressed in the Notes, shall not be impaired or affected without the consent of such Holder.

Section 6.08 Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a)(1) or (2) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceedings, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding has been instituted.

Section 6.10 Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.07, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 6.11 Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 6.12 Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes including the Guarantors), its creditors or its property and shall be entitled and empowered to participate as a member in any official committee of creditors appointed in such matter and to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.13 Priorities.

Any money or property collected by the Trustee pursuant to this Article 6 any money or other property distributable in respect of any grantor's Obligations under this Indenture after an Event of Default shall be applied in the following order:

FIRST: to the Trustee for amounts due under Section 7.07;

SECOND: to Holders for amounts due and unpaid on the Notes for the principal premium, if any, and interest ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, and interest, respectively;

THIRD: without duplication, to Holders for any other Obligations owing to the Holders under this Indenture and the Notes; and

FOURTH: to the Company or as otherwise directed by a court of competent jurisdiction.

The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 6.13.

Section 6.14 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.14 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE 7

TRUSTEE

Section 7.01 Duties of Trustee.

(a) The Trustee, prior to the occurrence of an Event of Default of which a Responsible Officer of the Trustee shall have actual knowledge and after the curing or waiver of all such Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If an Event of Default of which a Responsible Officer of the Trustee shall have actual knowledge has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved in a court of competent jurisdiction that the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05; and

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or indemnity satisfactory to it against such risk or liability is not assured to it.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 7.01.

(e) The Trustee shall be under no obligation to exercise any of its rights or powers under this Indenture at the request or direction of any of the Holders unless the Holders have offered to the Trustee indemnity or security satisfactory to the Trustee against any loss, liability or expense.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

#### Section 7.02 Rights of Trustee.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document, but the Trustee, in its sole discretion, may (and shall at the direction of the majority of the Holders) make such further inquiry or investigation into such facts or matters, and, if the Trustee shall determine, or be so directed, to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

- (c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent or attorney appointed with due care.
- (d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.
- (e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.
- (f) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture. Delivery of reports to the Trustee pursuant to Section 4.03 shall not constitute actual knowledge of, or notice to, the Trustee of the information contained therein.
- (g) In no event shall the Trustee be responsible or liable for any special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, lost profits) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.
- (h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.
- (i) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.
- (j) The Trustee may request that the Company and any Guarantor deliver an Officer's Certificate setting forth the names of the individuals and/or titles of Officers (with specimen signatures) authorized at such times to take specific actions pursuant to this Indenture, which Officer's Certificate may be signed by any person specified as so authorized in any certificate previously delivered and not superseded.
- (k) The right of the Trustee to perform any discretionary act enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct in the performance of such act.

Section 7.03 Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. The Trustee may engage in other transactions; provided, however, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days or resign as Trustee. Any Agent may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11.



Section 7.04 Trustee's Disclaimer.

The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

Section 7.05 Notice of Defaults.

If a Default occurs and is continuing and if it is known to the Trustee, the Trustee shall mail or otherwise deliver in accordance with the procedures of DTC to Holders a notice of the Default within 90 days after it occurs or if later, 15 days after it obtains knowledge thereof, unless such default shall have been cured or waived. Except in the case of a Default relating to the payment of principal, premium, if any, or interest on any Note, the Trustee may withhold from the Holders notice of any continuing Default if and so long as it in good faith determines that withholding the notice is in the interests of the Holders.

Section 7.06 [Reserved]

Section 7.07 Compensation and Indemnity.

The Company shall pay to the Trustee from time to time such compensation for its acceptance of this Indenture and services hereunder as the parties shall agree in writing from time to time. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon request for all reasonable out-of-pocket disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company and the Guarantors, jointly and severally, shall indemnify the Trustee for, and hold the Trustee harmless against, any and all loss, damage, claim, liability or expense (including reasonable attorneys' fees and expenses) incurred by it in connection with the acceptance or administration of this trust and the performance of its duties hereunder (including the reasonable costs and expenses of enforcing this Indenture against the Company or any of the Guarantors (including this Section 7.07) or defending itself against any claim whether asserted by any Holder, the Company or any Guarantor or any other Person, or liability in connection with the acceptance, exercise or performance of any of its powers or duties hereunder) (but excluding taxes imposed on such persons in connection compensation for such administration or performance). The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company and the Guarantors shall defend the claim and the

Trustee may have separate counsel and the Company shall pay the fees and expenses of such counsel. The Company need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct or gross negligence. Neither the Company nor any Guarantor need pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Company and the Guarantors under this Section 7.07 shall survive the satisfaction and discharge of this Indenture or the earlier resignation or removal of the Trustee.

To secure the payment obligations of the Company and the Guarantors in this Section 7.07, the Trustee shall have a Lien prior to the Notes and rights of the Holders on all money or property held or collected by the Trustee, except money or property held in trust to pay principal and interest on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(a)(6) or (7) occurs, the expenses and the compensation for the services (including the reasonable fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

#### Section 7.08 Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08. The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing not less than 30 days prior the effective date of such removal. The Company may remove the Trustee if:

- (a) the Trustee fails to comply with Section 7.10;
- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (c) a custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee (at the Company's expense), the Company or the Holders of at least 10% in principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall deliver a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee; provided that all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee.

Section 7.09 Successor Trustee by Merger, Etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

Section 7.10 Eligibility; Disqualification.

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has, together with its parent, a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition.

## ARTICLE 8

### LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01 Option to Effect Legal Defeasance or Covenant Defeasance.

The Company may, at its option and at any time, elect to have either Section 8.02 or 8.03 applied to all outstanding Notes and all obligations of the Guarantors with respect to the Guarantees upon compliance with the conditions set forth below in this Article 8.

Section 8.02 Legal Defeasance and Discharge.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.02, the Company and the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04, be deemed to have been discharged from their obligations with respect to all outstanding Notes and Guarantees on the date the conditions set forth below in this Section 8.02

are satisfied (“Legal Defeasance”). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, which shall thereafter be deemed to be “outstanding” only for the purposes of Section 8.05 and the other Sections of this Indenture referred to in (a) and (b) of this Section 8.02, to have cured all then existing Defaults and Events of Default and to have satisfied all their other obligations under such Notes and this Indenture including the obligations of the Guarantors (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

- (a) the rights of Holders to receive payments in respect of the principal of, premium, if any, and interest on the Notes when such payments are due solely out of the trust created pursuant to this Indenture referred to in Section 8.04;
- (b) the Company’s obligations with respect to Notes concerning issuing temporary Notes, registration of such Notes, mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payment and money for security payments held in trust;
- (c) the rights, powers, trusts, duties and immunities of the Trustee, and the Company’s obligations in connection therewith; and
- (d) this Section 8.02.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03.

#### Section 8.03 Covenant Defeasance.

Upon the Company’s exercise under Section 8.01 of the option applicable to this Section 8.03, the Company and the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04, be released from their obligations under the covenants contained in Sections 3.09, 4.03, 4.04, 4.05, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.14 and 4.15 and clauses (3) through (6) of Section 5.01(a) and Section 5.01(c) with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 are satisfied, and have each Guarantor’s obligation released with respect to its Guarantee (“Covenant Defeasance”), and the Notes shall thereafter be deemed not “outstanding” for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed “outstanding” for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes and related Guarantees, the Company and the Guarantors may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01, but, except as specified above, the remainder of this Indenture and such

Notes and Guarantees shall be unaffected thereby. In addition, upon the Company's, exercise under Section 8.01 of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04, Sections 6.01(a)(3), 6.01(a)(4), 6.01(a)(5), 6.01(a)(6) (solely with respect to Restricted Subsidiaries that are Significant Subsidiaries and any group of Restricted Subsidiaries that taken together would constitute a Significant Subsidiary), 6.01(a)(7) (solely with respect to Restricted Subsidiaries that are Significant Subsidiaries and any group of Restricted Subsidiaries that taken together would constitute a Significant Subsidiary) and 6.01(a)(8) shall not constitute Events of Default.

Section 8.04 Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of either Section 8.02 or 8.03 to the outstanding Notes:

In order to exercise either Legal Defeasance or Covenant Defeasance with respect to the Notes:

(1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in U.S. dollars, Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of an Independent Financial Advisor (insofar as any Government Securities are so included) to pay the principal of, premium, if any, and interest due on the Notes on the stated maturity date or on the redemption date, as the case may be, of such principal, premium, if any, or interest on such Notes and the Company must specify whether such Notes are being defeased to maturity or to a particular redemption date; provided that upon any redemption that requires the payment of the Applicable Premium, the amount deposited shall be sufficient for purposes of this Indenture to the extent that an amount is deposited with the Trustee equal to the Applicable Premium calculated as of the date of the notice of redemption, with any deficit as of the date of redemption (any such amount, the "Applicable Premium Deficit") only required to be deposited with the Trustee on or prior to the date of redemption. Any Applicable Premium Deficit shall be set forth in an Officer's Certificate delivered to the Trustee simultaneously with the deposit of such Applicable Premium Deficit that confirms that such Applicable Premium Deficit shall be applied toward such redemption;

(2) in the case of Legal Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions,

- (a) the Company has received from, or there has been published by, the United States Internal Revenue Service a ruling, or
- (b) since the issuance of the Notes, there has been a change in the applicable U.S. federal income tax law;

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, subject to customary assumptions and exclusions, the Holders will not recognize income, gain or loss for U.S. federal income tax purposes, as applicable, as a result of

such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee confirming that, subject to customary assumptions and exclusions, the Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to such tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Event of Default (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness, and, in each case the granting of Liens and the consummation of other transactions in connection therewith) shall have occurred and be continuing on the date of such deposit;

(5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under the Senior Credit Agreement or any other material agreement or material instrument (other than this Indenture) to which, the Company or any Guarantor is a party or by which the Company or any Guarantor is bound (other than that resulting from borrowing funds to be applied to make such deposit and any similar and simultaneous deposit relating to other Indebtedness and, in each case, the granting of Liens and the consummation of other transactions in connection therewith);

(6) the Company shall have delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Company with the intent of defeating, hindering, delaying or defrauding any creditors of the Company or any Guarantor or others; and

(7) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (which Opinion of Counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

Notwithstanding the foregoing, the Opinion of Counsel required by clause (2) of this Section 8.04 with respect to legal defeasance need not be delivered if all of the Notes not theretofore delivered to the Trustee for cancellation (x) have become due and payable or (y) will become due and payable within one year or are to be called for redemption within one year under arrangements reasonably satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company.

Section 8.05 Deposited Money and Government Securities to Be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 8.06, all money and Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company or a Guarantor acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or Government Securities deposited pursuant to Section 8.04 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the written request of the Company any money or Government Securities held by it as provided in Section 8.04 which, in the opinion of an Independent Financial Advisor expressed in a written certification thereof delivered to the Trustee to the extent such requested amount consists of Government Securities (which may be the opinion delivered under Section 8.04(2)), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06 Repayment to Company.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium or interest on any Note and remaining unclaimed for two years after such principal, and premium or interest has become due and payable shall be paid to the Company on their request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

Section 8.07 Reinstatement

If the Trustee or Paying Agent is unable to apply any United States dollars or Government Securities in accordance with Section 8.02 or 8.03, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03, as the case may be; provided that, if the Company makes any payment of principal of, premium or interest on any Note following the reinstatement of their obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 Without Consent of Holders.

Notwithstanding Section 9.02, the Company, any Guarantor (with respect to a Guarantee or this Indenture) and the Trustee may amend or supplement this Indenture and any Guarantee or Notes without the consent of any Holder:

- (1) to cure any ambiguity, omission, mistake, defect or inconsistency;
- (2) to provide for uncertificated Notes in addition to or in place of certificated Notes;
- (3) to comply with Section 5.01;
- (4) to provide for the assumption of the Company's or any Guarantor's obligations to the Holders that complies with the terms of this Indenture;
- (5) to make any change that would provide any additional rights or benefits to the Holders (including to secure the Notes or the Guarantees) or that does not adversely affect (as determined in good faith by the Company) the legal rights under this Indenture of any such Holder in any material respect;
- (6) to add covenants for the benefit of the Holders or to surrender any right or power conferred upon the Company or any Guarantor;
- (7) to provide for the issuance of Additional Notes in accordance with the terms of this Indenture;
- (8) to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee thereunder pursuant to the requirements thereof;
- (9) to add a Guarantor or a parent Guarantee under this Indenture, or to release any such Guarantor or Guarantee if at the time of such release such Guarantor is not otherwise required by this Indenture to be a Guarantor;
- (10) to conform the text of this Indenture, the Guarantees or the Notes to any provision of the "Description of Notes" section of the Offering Memorandum to the extent that such provision in such "Description of Notes" section was intended to be a verbatim recitation of a provision of this Indenture, the Guarantee or Notes as set forth in an Officer's Certificate;
- (11) to make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes as permitted by this Indenture, including, without



limitation, to facilitate the issuance and administration of the Notes; provided, however, that such amendment does not materially and adversely affect the rights of Holders to transfer Notes; or

(12) at the Company's election, to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the Trust Indenture Act, if applicable (it being agreed that this Indenture need not qualify under the Trust Indenture Act).

Upon the request of the Company accompanied by a resolution of its Board authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 7.02 (to the extent requested by the Trustee and subject to the last sentence of Section 9.06), the Trustee shall join with the Company and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental indenture that affects their own rights, duties or immunities under this Indenture or otherwise. Notwithstanding the foregoing, no Opinion of Counsel nor an Officer's Certificate, nor a resolution by the Board of the Company or any Guarantor, shall be required in connection with the addition of a Guarantor under this Indenture upon execution and delivery by such Guarantor and the Trustee of a supplemental indenture to this Indenture, the form of which is attached as Exhibit D.

#### Section 9.02 With Consent of Holders.

Except as provided in Section 9.01 and below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture, the Notes, and the Guarantees with the consent of the Holders of at least a majority in principal amount of the Notes then outstanding voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium or interest on the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, the Guarantees or the Notes may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Notes (other than Notes beneficially owned by the Company or its Affiliates in accordance with Section 2.09) voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). Section 2.08 and Section 2.09 shall determine which Notes are considered to be "outstanding" for the purposes of this Section 9.02.

Upon the request of the Company accompanied by a resolution of its Board authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in Section 9.06, the Trustee shall join with the Company in the execution of such amended or supplemental unless such amended or supplemental indenture directly affects their own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amended or supplemental indenture.

It shall not be necessary for the consent of the Holders under this Section 9.02 to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company shall deliver to the Holders affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to deliver such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver.

Without the consent of each affected Holder, an amendment or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

- (1) reduce the principal amount of such Notes whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the fixed final maturity of any such Note or reduce the premium payable upon the redemption of such Notes or change the date at which such Notes may be redeemed as described under Section 3.07; provided that any amendment to the notice requirements may be made with the consent of the Holders of at least a majority in aggregate principal amount of all the then outstanding Notes;
- (3) reduce the rate of or change the time for payment of interest on any Note;
- (4) waive a Default or Event of Default (A) in the payment of principal of or premium, if any, or interest on the Notes, except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration, or (B) in respect of a covenant or provision contained in this Indenture or any Guarantee that cannot be amended or modified without the consent of all Holders;
- (5) make any Note payable in money other than that stated therein;
- (6) make any change in the provisions of this Indenture relating to waivers of past Defaults;
- (7) make any change in these amendment and waiver provisions that is adverse to the Holders);
- (8) impair the right of any Holder to institute suit for the enforcement of any payment of, or premium, if any, or interest on or with respect to such Holder's Notes on or after the due dates thereof;
- (9) make any change to or modify the ranking of the Notes that would adversely affect the Holders; or

(10) except as expressly permitted by this Indenture, modify the Guarantee of any Significant Subsidiary (or any group of Restricted Subsidiaries that (determined as of the most recent consolidated financial statements of the Company for a fiscal quarter end provided as required by Section 4.03) would constitute a Significant Subsidiary) in any manner adverse in any material respect to the Holders or release any such Guarantee.

For the avoidance of doubt, no amendment to, or deletion of, any of the covenants described under Article 4 shall be deemed to impair or affect any rights of Holders to receive payment of principal of, or premium, if any, or interest on, the Notes.

Section 9.03 [Reserved].

Section 9.04 Revocation and Effect of Consents.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder is a continuing consent by the Holder and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder or subsequent Holder may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver. If a record date is fixed, then, notwithstanding the preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only such Persons, shall be entitled to consent to such amendment, supplement, or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date unless the consent of the requisite number of Holders has been obtained.

Section 9.05 Notation on or Exchange of Notes.

The Company may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 Trustee to Sign Amendments, Etc.

The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amendment, supplement or waiver until the Board of the Company approves it. In executing any amendment, supplement or waiver to any Notes Document, the Trustee shall receive and (subject to Section 7.01) shall be

fully protected in conclusively relying upon, in addition to the documents required by Section 12.03, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture, that all conditions precedent thereto have been complied with, and that such amendment, supplement or waiver is the legal, valid and binding obligation of the Company and any Guarantors party thereto, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof (including Section 9.03). Notwithstanding the foregoing, no Opinion of Counsel nor Officer's Certificate, nor a resolution from the Board of the Company or any Guarantor, will be required for the Trustee to execute any amendment or supplement adding a new Guarantor under this Indenture if such amendment or supplement is made pursuant to Section 9.01.

## ARTICLE 10

### GUARANTEES

#### Section 10.01 Guarantee.

Subject to this Article 10, each of the Guarantors hereby, jointly and severally, unconditionally guarantees, on an unsecured basis, to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the Obligations of the Company hereunder or thereunder, that: (a) the principal of, interest, premium on the Notes shall be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other Obligations of the Company to the Holders or the Trustee hereunder or thereunder shall be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Notes or any of such other Obligations, that same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed, the Guarantors shall be jointly and severally obligated to pay the same promptly. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

The Guarantors hereby agree that their Obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a Guarantor (other than payment in full of all of the Obligations of the Company hereunder or under the Notes). Each Guarantor hereby waives, to the fullest extent permitted by law, diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that this Guarantee shall not be discharged except by full payment of the Obligations contained in the Notes and this Indenture or by release in accordance with Section 10.06.

Each Guarantor also agrees to pay any and all costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Trustee or any Holder in enforcing any rights under this Section 10.01.

If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid either to the Trustee or such Holder, this Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of this Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Guarantees.

Until released in accordance with Section 10.06, each Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation or reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment of the Notes are, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Notes or Guarantees, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Notes shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

In case any provision of any Guarantee shall be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Each payment to be made by a Guarantor in respect of its Guarantee shall be made without set-off, counterclaim, reduction or diminution of any kind or nature.

#### Section 10.02 Limitation on Guarantor Liability.

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Guarantee of such Guarantor not constitute a

fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of each Guarantor shall be limited to the maximum amount as will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 10, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under applicable law. Each Guarantor that makes a payment under its Guarantee shall be entitled upon payment in full of all guaranteed Obligations under this Indenture to a contribution from each other Guarantor in an amount equal to such other Guarantor's pro rata portion of such payment based on the respective net assets of all the Guarantors at the time of such payment determined in accordance with GAAP.

Section 10.03 Execution and Delivery.

To evidence its Guarantee set forth in Section 10.01, each Guarantor hereby agrees that this Indenture (or a supplemental indenture in the form of Exhibit D) shall be executed on behalf of such Guarantor by one of its authorized officers.

Until released in accordance with Section 10.06, each Guarantor hereby agrees that its Guarantee set forth in Section 10.01 shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.

If an Officer whose signature is on this Indenture no longer holds that office at the time the Trustee authenticates the Note, the Guarantee shall be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee set forth in this Indenture on behalf of the Guarantors.

If required by Section 4.15, the Company shall cause any newly created or acquired Restricted Subsidiary to comply with the provisions of Section 4.15 and this Article 10, to the extent applicable.

Section 10.04 Subrogation.

Each Guarantor shall be subrogated to all rights of Holders against the Company in respect of any amounts paid by any Guarantor pursuant to the provisions of Section 10.01; provided that, if an Event of Default has occurred and is continuing, no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Company under this Indenture or the Notes shall have been paid in full.

Section 10.05 Benefits Acknowledged.

Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the guarantee and waivers made by it pursuant to its Guarantee are knowingly made in contemplation of such benefits.

Section 10.06 Release of Guarantees.

A Guarantee by a Guarantor shall be automatically and unconditionally released and discharged, and no further action by such Guarantor, the Company or the Trustee is required for the release of such Guarantor's Guarantee, upon:

(1) any sale, exchange, disposition or transfer (by merger, amalgamation, consolidation, dividend, distribution or otherwise) of (i) the Capital Stock of such Guarantor, after which the applicable Guarantor is no longer a Restricted Subsidiary or (ii) all or substantially all of the assets of such Guarantor, in each case, if such sale, exchange, disposition or transfer is made in compliance with the applicable provisions of this Indenture;

(A) the release or discharge of the guarantee by, or direct obligation of, such Guarantor of (i) the Senior Credit Agreement (except (x) a discharge or release by or as a result of payment under such guarantee and (y) if such Guarantor is otherwise an obligor, co-obligor or jointly liable under the Senior Credit Agreement) or (ii) such other guarantee which resulted in the creation of such Guarantee, except a discharge or release by or as a result of payment under such guarantee (it being understood that a release subject to a contingent reinstatement will constitute a release, and that if any such guarantee or direct obligation is so reinstated, such Guarantee shall also be reinstated to the extent that such Guarantor would then be required to provide a Guarantee pursuant to Section 4.15);

(B) the designation of any Restricted Subsidiary that is a Guarantor as an Unrestricted Subsidiary in compliance with the applicable provisions of this Indenture;

(C) the Company exercising its Legal Defeasance option or Covenant Defeasance option in accordance with Article 8 or the Company's obligations under this Indenture being discharged in accordance with the terms of this Indenture; or

(D) upon the merger or consolidation of any Guarantor with and into the Company or another Guarantor that is the surviving Person in such merger or consolidation, or upon the liquidation of a Guarantor following the transfer of all of its assets to the Company or another Guarantor; and

(2) the Company and such Guarantor delivering to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent provided for in this Indenture relating to such transaction have been complied with.

In addition, the Company will have the right, upon delivery of an Officer's Certificate to the Trustee, to cause any Guarantor that does not guarantee any Indebtedness under any Credit Facility or any Capital Markets Indebtedness of the Company or any Guarantor and is otherwise not an obligor under a Credit Facility, and is not otherwise required by this Section 4.15 to provide a Guarantee, to be unconditionally released and discharged from all obligations under its Guarantee, and such Guarantee will thereupon automatically and unconditionally terminate and be discharged and of no further force or effect.

## ARTICLE 11

### SATISFACTION AND DISCHARGE

#### Section 11.01 Satisfaction and Discharge.

This Indenture shall be discharged and shall cease to be of further effect as to all Notes, when either:

(1) all Notes theretofore authenticated and delivered, except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust, have been delivered to the Trustee for cancellation; or

(2) all Notes not theretofore delivered to the Trustee for cancellation have become due and payable by reason of the making of a notice of redemption or otherwise, shall become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company or any Guarantor have irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, Government Securities or a combination thereof, in such amounts as will be sufficient without consideration of any reinvestment of interest to pay and discharge the entire indebtedness on the Notes not theretofore delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption; provided that upon any redemption that requires the payment of the Applicable Premium, the amount deposited shall be sufficient for purposes of this Indenture to the extent that an amount is deposited with the Trustee equal to the Applicable Premium calculated as of the date of the notice of redemption, with any Applicable Premium Deficit only required to be deposited with the Trustee on or prior to the date of redemption. Any Applicable Premium Deficit shall be set forth in an Officer's Certificate delivered to the Trustee simultaneously with the deposit of such Applicable Premium Deficit that confirms that such Applicable Premium Deficit shall be applied toward such redemption

(A) the Company has paid or caused to be paid all sums payable by it under this Indenture; and



(B) the Company has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at maturity or the redemption date, as the case may be.

In addition, the Company must deliver an Officer's Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money shall have been deposited with the Trustee pursuant to subclause (A) of clause (2) of this Section 11.01, the provisions of Section 11.02, Section 7.07 and Section 8.06 shall survive.

Section 11.02 Application of Trust Money.

Subject to the provisions of Section 8.06, all money deposited with the Trustee pursuant to Section 11.01 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 11.01 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01; provided that if the Company has made any payment of principal of, premium or interest on any Notes because of the reinstatement of their obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE 12

MISCELLANEOUS

Section 12.01 Notices.

Any notice or communication by the Company, any Guarantor, the Trustee to the others is duly given if in writing (including telecopy and electronic transmission in PDF format) and delivered in person or mailed by first-class mail (registered or certified, return receipt requested), fax or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company and/or any Guarantor:

LPL Holdings, Inc.  
75 State Street  
Boston, MA 02109  
Fax No.: (617) 556-4002  
Telephone: (617) 423-3644  
Attention: General Counsel

With a copy to (which shall not constitute notice for any purpose under this Indenture):

Ropes & Gray LLP  
Prudential Tower, 800 Boylston Street  
Boston, MA 02199  
Attention: Michael Lee  
Telephone: (617) 951-7745

If to the Trustee:

U.S. Bank National Association  
Global Corporate Trust Services  
633 West Fifth Street, 24th Floor  
Los Angeles, CA 90071  
Fax No.: (213) 615-6197  
Telephone: (213) 615-6043  
Attention: Paula Oswald

The Company, any Guarantor or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five calendar days after being deposited in the mail, postage prepaid, if mailed by first-class mail; when receipt acknowledged, if faxed or sent electronically; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery; and on the date sent to the Depository if otherwise given in accordance with Applicable Procedures; provided that any notice or communication delivered to the Trustee shall be deemed effective upon actual receipt thereof and on the first date on which publication is made, if given by publication.

Any notice or communication to a Holder shall be electronically delivered, mailed by first-class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the Note Register kept by the Registrar. Failure to deliver a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed or otherwise delivered in the manner provided above within the time prescribed, such notice or communication shall be deemed duly given, whether or not the addressee receives it.

If the Company sends a notice or communication to Holders, it shall send a copy to the Trustee and each Agent at the same time.

Section 12.02 Communication by Holders with Other Holders.

Holders may communicate with other Holders with respect to their rights under this Indenture or the Notes.

Section 12.03 Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company or any of the Guarantors to the Trustee to take any action under this Indenture, the Company or such Guarantor, as the case may be, shall furnish to the Trustee:

(a) An Officer's Certificate in form reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.04) stating that, in the opinion of the signer, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; provided that an Officer's Certificate shall not be required in connection with the issuance of Notes or the entering into any of the Notes Documents on the Issue Date; and

(b) An Opinion of Counsel in form reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 12.04), stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied; provided that an Opinion of Counsel shall not be required in connection with the issuance of Notes or the entering into any of the Notes Documents on the Issue Date.

Section 12.04 Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to Section 4.04) shall include:

(a) a statement that the Person making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with (and, in the case of an Opinion of Counsel, may be limited to reliance on an Officer's Certificate as to matters of fact); and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with; provided, however that with respect to matters of fact an Opinion of Counsel may rely on an Officer's Certificate or certificates of public officials.

Section 12.05 [Reserved]

Section 12.06 Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 12.07 No Personal Liability of Directors, Officers, Employees, Incorporators, Members, Partners and Stockholders.

No past, present or future director, officer, employee, incorporator, member, partner or stockholder of the Company or any Guarantor or any of their parent companies or entities (other than the Company in respect of the Notes and each Guarantor in respect of its Guarantee) shall have any liability for any obligations of the Company or the Guarantors under the Notes, the Guarantees or this Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting Notes waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 12.08 Governing Law.

THIS INDENTURE, THE NOTES AND ANY GUARANTEE WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

Section 12.09 Waiver of Jury Trial.

EACH OF THE COMPANY, THE GUARANTORS, THE TRUSTEE AND EACH HOLDER, BY ITS ACCEPTANCE OF A NOTE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 12.10 Force Majeure.

In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including without limitation strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services.

Section 12.11 No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or the Restricted Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.12 Successors.

All agreements of the Company in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee in this Indenture shall bind its successors. All agreements of each Guarantor in this Indenture shall bind its successors, except as otherwise provided in Section 10.06.

Section 12.13 Severability.

In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.14 Counterpart Originals.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. This Indenture may be executed in multiple counterparts which, when taken together, shall constitute one instrument. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 12.15 Table of Contents, Headings, Etc.

The Table of Contents, Cross-Reference Table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 12.16 U.S.A. Patriot Act.

The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

[Signatures on following page]

LPL HOLDINGS, INC.

By: /s/ Matthew Audette

Name: Matthew Audette

Title: Chief Financial Officer

[Signature Page to Indenture]

GUARANTORS:

INDEPENDENT ADVISERS GROUP  
CORPORATION

By: /s/ Mimi Carsley

Name: Mimi Carsley

Title: Treasurer

LPL INDEPENDENT ADVISOR SERVICES  
GROUP LLC

By: /s/ Mimi Carsley

Name: Mimi Carsley

Title: Treasurer

LPL INSURANCE ASSOCIATES, INC.

By: /s/ Mimi Carsley

Name: Mimi Carsley

Title: Treasurer

[Signature Page to Indenture]

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: /s/ Paula Oswald

Name: Paula Oswald

Title: Vice President

[Signature Page to Indenture]



[Face of Note]

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the Regulation S Temporary Global Note Legend, if applicable pursuant to the provisions of the Indenture]

[Insert the ERISA Note Legend, if applicable pursuant to the provisions of the Indenture]

[RULE 144A] [REGULATION S] GLOBAL NOTE

5.750% Senior Notes due 2025

No. \_\_\_\_

[\$\_\_\_\_\_]

LPL Holding, Inc.

promises to pay to CEDE & CO. or registered assigns, the principal sum [set forth on the Schedule of Exchanges of Interests in the Global Note attached hereto] [of \_\_\_\_\_ United States Dollars] on September 15, 2025.

Interest Payment Dates: March 15 and September 15

Record Dates: March 1 and September 1

<sup>1</sup> For Initial Notes only:  
Rule 144A Note CUSIP: 50212Y AB0  
Rule 144A Note ISIN: US50212YAB02  
Regulation S Note CUSIP: U5462T AB9  
Regulation S Note ISIN: USU5462TAB99

IN WITNESS HEREOF, the Company has caused this instrument to be duly executed.

LPL HOLDINGS, INC.

By: \_\_\_\_\_  
Name:  
Title:

This is one of the Notes referred to in the within-mentioned Indenture:

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

Dated:

By: \_\_\_\_\_  
Authorized Signatory

5.750% Senior Notes due 2025

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. The Company promises to pay interest on the principal amount of this Note at 5.750% per annum from [March 10, 2017]<sup>2</sup>/<sup>3</sup> until maturity. The Company will pay interest semi-annually in arrears on March 15 and September 15 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an “Interest Payment Date”). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; provided that the first Interest Payment Date shall be [September 15, 2017]<sup>4</sup>/<sup>5</sup>. The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at the interest rate on the Notes; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest, if any (without regard to any applicable grace periods) from time to time on demand at the interest rate on the Notes. Interest will be computed on the basis of a 360-day year comprised of twelve 30-day months.

2. METHOD OF PAYMENT. The Company will pay interest on the Notes, if any, to the Persons who are registered Holders at the close of business on the March 1 or September 1 (whether or not a Business Day), as the case may be, next preceding the Interest Payment Date, even if such Notes are cancelled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. Payment of interest, if any, may be made by check mailed to the Holders at their addresses set forth in the register of Holders; provided that payment by wire transfer of immediately available funds to the accounts specified by the Holder or Holders thereof will be required with respect to principal and interest, premium, if any, on all Global Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Until otherwise designated by the Company, the Company’s office or agency will be the office of the Trustee maintained for such purpose. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

3. PAYING AGENT AND REGISTRAR. Initially, U.S. Bank National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without prior written notice to the Holders. The Company or any of the Company’s Subsidiaries may act in as paying agent or registrar.

<sup>2</sup> With respect to the Notes issued on the Issue Date  
<sup>3</sup> For Additional Notes  
<sup>4</sup> With respect to the Notes issued on the Issue Date  
<sup>5</sup> For Additional Notes

4. **INDENTURE.** The Company issued the Notes under an Indenture, dated as of March 10, 2017 (the “**Indenture**”), among LPL Holdings, Inc., the Guarantors named therein and the Trustee. This Note is one of a duly authorized issue of notes of the Company designated as its 5.750% senior notes due 2025. The Company may issue Additional Notes pursuant to Section 2.01 and 4.09 of the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

5. **REDEMPTION AND REPURCHASE.** The Notes are subject to optional and mandatory redemption, and may be the subject of an Offer to Purchase, as further described in the Indenture. Except as provided in the Indenture, the Company shall not be required to make any mandatory redemption or sinking fund payments with respect to the Notes. The Company and its Affiliates may at any time and from time to time purchase Notes in the open market or otherwise.

6. **DENOMINATIONS, TRANSFER, EXCHANGE.** The Notes are in registered form without coupons in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption or tendered (and not withdrawn) for repurchase in connection with a Change of Control Offer, an Asset Sale Offer or other tender offer, in whole or in part, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before the mailing or electronic delivery of a notice of redemption of Notes to be redeemed. The registered Holder of a Note will be treated as the owner of the Note for all purposes. Only registered Holders will have rights under the Indenture.

7. **PERSONS DEEMED OWNERS.** The registered Holder of a Note may be treated as its owner for all purposes.

8. **AMENDMENT, SUPPLEMENT AND WAIVER.** The Indenture, the Guarantees or the Notes may be amended or supplemented as provided in the Indenture.

9. **DEFAULTS AND REMEDIES.** The Events of Default relating to the Notes are defined in Section 6.01 of the Indenture. Upon the occurrence of an Event of Default, the rights and obligations of the Company, the Guarantors, the Trustee and the Holders shall be as set forth in the applicable provisions of the Indenture.

10. **AUTHENTICATION.** This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

11. GOVERNING LAW. THE INDENTURE, THE NOTES AND ANY GUARANTEE WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

12. CUSIP NUMBERS. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes, and the Trustee may use CUSIP numbers in notices as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice, and reliance may be placed only on the other identification numbers placed thereon.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to the Company at the following address:

LPL Holdings, Inc.  
75 State Street  
Boston, MA 02109  
Attention: Secretary

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to:

\_\_\_\_\_  
(Insert assignee's legal name)

\_\_\_\_\_  
(Insert assignee's soc. sec. or tax I.D. no.)

\_\_\_\_\_  
(Print or type assignee's name, address and zip code)

and irrevocably appoint \_\_\_\_\_  
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: \_\_\_\_\_

Your Signature: \_\_\_\_\_  
(Sign exactly as your name appears on the  
face of this Note)

Signature Guarantee:\* \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).



OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.14 of the Indenture, check the appropriate box below:

Section 4.10       Section 4.14

If you want to elect to have only part of this Note purchased by the Company pursuant to Section 4.10 or Section 4.14 of the Indenture, state the amount you elect to have purchased:

Date: \_\_\_\_\_ \$ \_\_\_\_\_

Your Signature: \_\_\_\_\_

(Sign exactly as your name appears on the face of this Note)

Signature Guarantee:\* \_\_\_\_\_

\* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE\*

The initial outstanding principal amount of this Global Note is \$\_\_\_\_\_. The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global or Definitive Note for an interest in this Global Note, have been made:

| Date of Exchange | Amount of decrease in Principal Amount | Amount of increase in Principal Amount of this Global Note | Principal Amount of this Global Note following such decrease or increase | Signature of authorized signatory of Trustee or Note Custodian |
|------------------|--|--|--|--|
|------------------|--|--|--|--|

\* This schedule should be included only if the Note is issued in global form.

## FORM OF CERTIFICATE OF TRANSFER

LPL Holdings, Inc.  
 75 State Street  
 Boston, MA 02109  
 Fax No.: (617) 556-4002  
 Attention: General Counsel

U.S. Bank National Association  
 Global Corporate Trust Services  
 633 West Fifth Street, 24th Floor  
 Los Angeles, CA 90071  
 Fax No.: (213) 615-6197  
 Attention: Paula Oswald

Re: 5.750% Senior Notes due 2025

Reference is hereby made to the Indenture, dated as of March 10, 2017 (the "Indenture"), among LPL Holdings, Inc., the Guarantors named therein and the Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_ (the "Transferor") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of \$\_\_\_\_\_ in such Note[s] or interests (the "Transfer"), to \_\_\_\_\_ (the "Transferee"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE 144A GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO RULE 144A. The Transfer is being effected pursuant to and in accordance with Rule 144A under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Indenture and the Securities Act.

2.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE REGULATION S GLOBAL NOTE OR A DEFINITIVE NOTE PURSUANT TO REGULATION S. The Transfer is being effected pursuant to and in

accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on Transfer enumerated in the Indenture and the Securities Act.

3.  CHECK AND COMPLETE IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN THE DEFINITIVE NOTE PURSUANT TO ANY PROVISION OF THE SECURITIES ACT OTHER THAN RULE 144A OR REGULATION S. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a)  such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b)  such Transfer is being effected to the Company or a subsidiary thereof;

or

(c)  such Transfer is being effected pursuant to an effective registration statement under the Securities Act and, if applicable, in compliance with the prospectus delivery requirements of the Securities Act.

4.  CHECK IF TRANSFEREE WILL TAKE DELIVERY OF A BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE OR OF AN UNRESTRICTED DEFINITIVE NOTE.

(a)  CHECK IF TRANSFER IS PURSUANT TO RULE 144. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in

accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b)  CHECK IF TRANSFER IS PURSUANT TO REGULATION S. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c)  CHECK IF TRANSFER IS PURSUANT TO OTHER EXEMPTION. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a)  a beneficial interest in the:

(i)  144A Global Note (CUSIP [            ]), or

(ii)  Regulation S Global Note (CUSIP [            ]), or

(b)  a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a)  a beneficial interest in the:

(i)  144A Global Note (CUSIP [            ]), or

(ii)  Regulation S Global Note (CUSIP [            ]), or

(iii)  Unrestricted Global Note (CUSIP [            ]); or

(b)  a Restricted Definitive Note; or

(c)  an Unrestricted Definitive Note, in accordance with the terms of the Indenture.

Annex A-1

## FORM OF CERTIFICATE OF EXCHANGE

LPL Holdings, Inc.  
 75 State Street  
 Boston, MA 02109  
 Fax No.: (617) 556-4002  
 Attention: General Counsel

U.S. Bank National Association  
 Global Corporate Trust Services  
 633 West Fifth Street, 24th Floor  
 Los Angeles, CA 90071  
 Fax No.: (213) 615-6197  
 Attention: Paula Oswald

Re: 5.750% Senior Notes due 2025

Reference is hereby made to the Indenture, dated as of March 10, 2017 (the "Indenture"), among LPL Holdings, Inc., the Guarantors named therein and the Trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

\_\_\_\_\_ (the "Owner") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of \$ \_\_\_\_\_ in such Note[s] or interests (the "Exchange"). In connection with the Exchange, the Owner hereby certifies that:

1) EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN A RESTRICTED GLOBAL NOTE FOR UNRESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN AN UNRESTRICTED GLOBAL NOTE

a)  CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the United States Securities Act of 1933, as amended (the "Securities Act"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

b)  CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO UNRESTRICTED DEFINITIVE NOTE. In

connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

c)  CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN AN UNRESTRICTED GLOBAL NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

d)  CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO UNRESTRICTED DEFINITIVE NOTE. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2) EXCHANGE OF RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES FOR RESTRICTED DEFINITIVE NOTES OR BENEFICIAL INTERESTS IN RESTRICTED GLOBAL NOTES

a)  CHECK IF EXCHANGE IS FROM BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE TO RESTRICTED DEFINITIVE NOTE. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.



b)  CHECK IF EXCHANGE IS FROM RESTRICTED DEFINITIVE NOTE TO BENEFICIAL INTEREST IN A RESTRICTED GLOBAL NOTE. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the  144A Global Note  Regulation S Global Note, with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By: \_\_\_\_\_  
Name:  
Title:

Dated: \_\_\_\_\_

[FORM OF SUPPLEMENTAL INDENTURE  
TO BE DELIVERED BY SUBSEQUENT GUARANTORS]

Supplemental Indenture (this "Supplemental Indenture"), dated as of \_\_\_\_\_, among \_\_\_\_\_ (the "Guaranteeing Subsidiary"), a subsidiary of LPL Holdings, Inc., a Massachusetts corporation, and U.S. Bank National Association, as trustee (the "Trustee").

W I T N E S S E T H

WHEREAS, each of LPL Holdings, Inc., and the Guarantors (as defined in the Indenture referred to below) has heretofore executed and delivered to the Trustee an indenture (as amended, modified or supplemented from time to time, the "Indenture"), dated as of March 10, 2017, providing for the issuance of an unlimited aggregate principal amount of 5.750% senior notes due 2025 (the "Notes");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein and under the Indenture (the "Guarantee"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

- (1) Capitalized Terms. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
- (2) Agreement to Guarantee. The Guaranteeing Subsidiary hereby agrees to be a Guarantor under the Indenture and to be bound by the terms of the Indenture applicable to Guarantors, including Article 10 thereof.
- (3) Execution and Delivery. Until released in accordance with Section 10.06, the Guaranteeing Subsidiary agrees that the Guarantee shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.
- (4) No Personal Liability of Directors, Officers, Employees, Incorporators, Members, Partners and Stockholders. No past, present or future director, officer, employee, incorporator, member, partner or stockholder of the Guaranteeing Subsidiary or any of its parent companies or entities (other than the Company in respect of the Notes and each Guarantor in respect of its Guarantee) shall have any liability for any obligations of the Guaranteeing Subsidiary under the Notes, the Guarantees or this Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting Notes waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

(5) Governing Law. THIS SUPPLEMENTAL INDENTURE WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

(6) Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. This Supplemental Indenture may be executed in multiple counterparts which, when taken together, shall constitute one instrument. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

(7) Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

(8) The Trustee. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary.

(9) Ratification of Indenture; Supplemental Indenture Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder heretofore or hereafter authenticated and delivered shall be bound hereby.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

[GUARANTEEING SUBSIDIARY]

By: \_\_\_\_\_

Name:

Title:

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee

By: \_\_\_\_\_

Name:

Title:

.....  
**FOURTH AMENDMENT AGREEMENT**

dated as of March 10, 2017

among

LPL FINANCIAL HOLDINGS INC.,  
as Holdings,

LPL HOLDINGS, INC.,  
as Borrower,

CERTAIN SUBSIDIARIES OF LPL FINANCIAL HOLDINGS INC.,  
as Subsidiary Guarantors,

THE LENDERS PARTY HERETO,

JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent,

BANK OF AMERICA, N.A.,  
JPMORGAN CHASE BANK, N.A.  
and  
MORGAN STANLEY BANK, N.A.,  
as Letter of Credit Issuers,

JPMORGAN CHASE BANK, N.A.  
and  
MORGAN STANLEY BANK, N.A.,  
as Swingline Lenders,

.....  
JPMORGAN CHASE BANK, N.A.,  
MORGAN STANLEY SENIOR FUNDING, INC.,  
GOLDMAN SACHS BANK USA,  
WELLS FARGO SECURITIES, LLC,  
CITIGROUP GLOBAL MARKETS INC.,  
CITIZENS BANK, N.A.,  
CREDIT SUISSE SECURITIES (USA) LLC,  
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED  
and  
SUNTRUST ROBINSON HUMPHREY, INC.,  
as Joint Lead Arrangers and Joint Bookrunners,

BBVA COMPASS,  
as Syndication Agent

and

U.S. BANK, N.A.,  
as Documentation Agent

## FOURTH AMENDMENT AGREEMENT

This FOURTH AMENDMENT AGREEMENT (this "Agreement"), dated as of March 10, 2017, is made by and among LPL HOLDINGS, INC., a Massachusetts corporation (the "Borrower"), LPL FINANCIAL HOLDINGS INC., a Delaware corporation ("Holdings"), each subsidiary of the Borrower listed on the signature pages hereto (the "Subsidiary Guarantors"; the Subsidiary Guarantors, together with Holdings, the "Guarantors"; and the Guarantors, together with the Borrower, the "Credit Parties"), each of the undersigned banks and other financial institutions which is a "Lender" under (and as defined in) the Amended and Restated Credit Agreement (as defined below), JPMORGAN CHASE BANK, N.A. ("JPMorgan"), as administrative agent for the Lenders under the Amended and Restated Credit Agreement (as defined below) (the "Administrative Agent") and as collateral agent for the Lenders under the Amended and Restated Credit Agreement, BANK OF AMERICA, N.A., MORGAN STANLEY BANK, N.A. ("MSB") and JPMorgan, as Letter of Credit Issuers under (and as defined in) the Amended and Restated Credit Agreement, and JPMorgan and MSB, as Swingline Lenders.

### PRELIMINARY STATEMENTS:

(1) *Credit Agreement.* The Borrower, Holdings, the Administrative Agent, the arrangers and other agents party thereto, JPMorgan and Bank of America, N.A., as swingline lenders and letter of credit issuers, and the banks and other financial institutions from time to time party thereto as lenders are parties to that certain Credit Agreement, dated as of March 29, 2012 (as amended by that certain First Amendment and Incremental Assumption Agreement, dated as of May 13, 2013, as further amended by that certain Second Amendment, Extension and Incremental Assumption Agreement, dated as of October 1, 2014, as further amended by that certain Consent to Amendment Agreement, dated as of November 21, 2014, as further amended by that certain Third Amendment, Extension and Incremental Assumption Agreement, dated as of November 20, 2015, and as otherwise amended, modified or supplemented from time to time prior to the date hereof, the "Original Credit Agreement", and as further amended by this Agreement, the "Amended and Restated Credit Agreement"). Capitalized terms not otherwise defined in this Agreement have the same meanings as specified in the Amended and Restated Credit Agreement;

(2) *Amendment and Restatement; Refinancing.* The parties hereto desire to amend and restate the Original Credit Agreement (the "Amendment and Restatement") in its entirety on the terms set forth in the Amended and Restated Credit Agreement to, among other things, (a) refinance all Loans and Revolving Credit Commitments, and pay all accrued interest (regardless of whether then due and payable), fees and other amounts, in each case outstanding under the Original Credit Agreement (the "Refinancing") with (i) a \$500,000,000 revolving credit facility and a \$1,700,000,000 term B loan facility, each incurred pursuant to the Amended and Restated Credit Agreement and (ii) the cash proceeds from the Borrower's issuance of \$500,000,000 in principal amount of 5.750% senior unsecured notes due 2025 (the "Senior Notes"), and (b) make certain other amendments in connection therewith; and

(3) The Borrower, the other Credit Parties, the Administrative Agent, the Letter of Credit Issuers, the Swingline Lenders and the Lenders party hereto (such Lenders, the "Amending Lenders") have agreed, subject to the terms and conditions set forth below, to amend the Original Credit Agreement and certain other Credit Documents as hereinafter set forth.

**SECTION 1. Amendment and Restatement.** Subject to the satisfaction of the conditions set forth in Section 4, (i) the Original Credit Agreement is hereby amended and restated in its entirety in the form of Annex I hereto, (ii) the Schedules attached hereto hereby replace in their entirety the corresponding Schedules attached to the Original Credit Agreement prior to the Effective Date (including, without limitation, Schedule 1.1(a) hereto which sets forth the Revolving Credit Commitments and the Initial Term Loan Commitments of the Lenders party hereto, and the respective Letter of Credit Commitments of the Letter of Credit Issuers), and (iii) the Exhibits attached hereto hereby replace in their entirety the corresponding Exhibits attached to the Original Credit Agreement prior to the Effective Date or constitute new Exhibits to the Amended and Restated Credit Agreement.

**SECTION 2. Amendment to Security Agreement** Clause (C) of the proviso to Section 2(a) of the Security Agreement is hereby amended by deleting the reference to “\$5,000,000” and replacing it with “\$15,000,000”.

**SECTION 3. Representations and Warranties.** Each of the Credit Parties hereby represents and warrants, on and as of the Effective Date, to the Administrative Agent and the Lenders, that:

(a) The representations and warranties set forth in the Amended and Restated Credit Agreement and in the other Credit Documents are true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of the Effective Date, in each case except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date; provided that any representation and warranty that is qualified as to “materiality”, “Material Adverse Effect” or similar language shall be true and correct in all respects on the Effective Date, or on such earlier date, as the case may be (after giving effect to such qualification).

(b) It has the corporate or other organizational power to execute, deliver and perform this Agreement, and it has taken all necessary corporate or other organizational action required to be taken by it to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.

(c) At the time of and after giving effect to this Agreement, no Default or Event of Default has occurred and is continuing.

**SECTION 4. Conditions to Effectiveness.** This Agreement and the obligations of the Lenders party hereto to make their respective Commitments and Loans, as provided in the Amended and Restated Credit Agreement, shall become effective on and as of the first Business Day on which the following conditions shall have been satisfied, or waived by each Amending Lender (the “Effective Date”):

(a) the Administrative Agent shall have received counterparts of this Agreement, duly executed and delivered by, or on behalf of, (i) the Borrower, (ii) Holdings, (iii) each Subsidiary Guarantor, (iv) the Administrative Agent, (v) all Amending Lenders (constituting all Lenders as of the Effective Date), (vi) each Swingline Lender, and (vii) each Letter of Credit Issuer;



(b) the Administrative Agent shall have received a duly executed and completed written notice of voluntary termination of all Commitments (as defined in the Original Credit Agreement) and voluntary prepayment of “Term Loans” and “Revolving Credit Loans” (each as defined in the Original Credit Agreement), delivered to the Administrative Agent in accordance with the applicable provisions of Sections 4.2 and 5.1 of the Original Credit Agreement;

(c) the Administrative Agent shall have received a duly executed and completed Notice of Borrowing from the Borrower issued with respect to the Initial Term Loans and made in compliance with Section 2.3(a) of the Amended and Restated Credit Agreement;

(d) the Administrative Agent shall have received (i) a certified copy of the resolutions, in form and substance reasonably satisfactory to the Administrative Agent, of the board of directors, other managers or general partner of the Borrower and each other Credit Party (or a duly authorized committee thereof) authorizing the execution, delivery and performance of this Agreement and the performance of the Amended and Restated Credit Agreement and the other Credit Documents to which such Credit Party is a party, in each case as modified by this Agreement, certified as of the Effective Date by an Authorized Officer of such Credit Party as being in full force and effect without modification or amendment, and (ii) good standing certificates for such Credit Party for each jurisdiction in which such Credit Party is organized;

(e) the Administrative Agent shall have received such incumbency certificates and/or other certificates of Authorized Officers of the Borrower and each other Credit Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Authorized Officer of such Credit Party authorized to act as an Authorized Officer in connection with this Agreement, the Amended and Restated Credit Agreement and the other Credit Documents to which such Credit Party is a party;

(f) the Administrative Agent shall have received from Ropes & Gray LLP, counsel to Holdings, the Borrower and the other Credit Parties, an executed legal opinion covering such matters as the Administrative Agent may reasonably request and otherwise reasonably satisfactory to the Administrative Agent;

(g) the Administrative Agent shall have received the results of a recent lien search in each of the jurisdictions where the Borrower and the other Credit Parties are organized, and such searches shall reveal no Liens on any of the assets of the Credit Parties, except for Permitted Liens, Liens otherwise permitted under Section 10.2 of the Amended and Restated Credit Agreement and/or Liens discharged on or prior to the Effective Date pursuant to documentation reasonably satisfactory to the Administrative Agent;

(h) the representations and warranties contained (i) in Section 3 of this Agreement, and (ii) in Section 8 of the Credit Agreement and in the other Credit Documents, shall, in each case, be true and correct in all material respects, on and as of the Effective Date, except to the extent such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date; provided that any representation and warranty that is qualified as to “materiality”, “Material Adverse Effect” or similar language shall be true and correct in all respects on the Effective Date or on such earlier date, as the case may be (after giving effect to such qualification);

(i) no Default or Event of Default exists immediately before or immediately after giving effect to this Agreement;

(j) the Administrative Agent shall have received a certificate, dated as of the Effective Date, signed by an Authorized Officer of the Borrower certifying as to compliance with the conditions precedent set forth in clauses (h) and (i) of this Section 4;

(k) the Administrative Agent shall have received an executed Note for each Lender that requests a Note at least three Business Days prior to the Effective Date;

(l) the Administrative Agent shall have received all documentation and other information reasonably requested in writing at least five Business Days prior to the date hereof in order to allow any Lenders to comply with applicable “know your customer” and anti-money laundering rules and regulations, including without limitation, the PATRIOT ACT;

(m) the Administrative Agent shall have received a solvency certificate from the chief financial officer of the Borrower as to the solvency (on a consolidated basis) of the Borrower and its Subsidiaries as of the Effective Date;

(n) the Administrative Agent shall have received copies of insurance certificates evidencing the insurance required to be maintained by the Borrower and the Restricted Subsidiaries pursuant to Section 9.3 of the Amended and Restated Credit Agreement;

(o) the Borrower shall have paid all reasonable out of pocket costs and expenses of the Administrative Agent (including the reasonable fees, disbursements and other charges of counsel) for which invoices have been presented at least two Business Days prior to the Effective Date; and

(p) the Borrower shall have paid to the Administrative Agent, for the account of (i) each of the “Joint Lead Arrangers and Joint Bookrunners” listed as such on the cover sheet of this Agreement (each a “JLA”), all fees payable to such JLA pursuant to each applicable engagement letter and fee letter made between or among

the Borrower and the various JLAs, (ii) each Revolving Credit Lender making any Revolving Credit Commitments on the Effective Date (regardless of whether undrawn or drawn in whole or in part on the Effective Date), a non-refundable upfront fee in an amount equal to 0.20% of the aggregate principal amount of the Revolving Credit Commitments made by such Revolving Credit Lender on the Effective Date, and (iii) the Initial Term Loans shall have been issued on the Effective Date subject to an original issue discount of 0.25%.

**SECTION 5. Reference to and Effect on the Credit Agreement; Confirmation of Guarantors.**

(a) On and after the effectiveness of this Agreement, each reference in the Amended and Restated Credit Agreement to “this Agreement”, “hereunder”, “hereof” or words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement, as amended by, and after giving effect to, this Agreement.

(b) Each Credit Document, after giving effect to this Agreement, is and shall continue to be in full force and effect and is hereby in all respects ratified and confirmed, except that, on and after the effectiveness of this Agreement, (i) each reference in each of the Credit Documents (including the Security Agreement and the other Security Documents) to the “Credit Agreement”, “thereunder”, “thereof” or words of like import referring to the Credit Agreement shall mean and be a reference to the Amended and Restated Credit Agreement; and (ii) each reference in each of the Credit Documents (including the Security Documents) to the “Security Agreement”, “thereunder”, “thereof” or words of like import referring to the Security Agreement shall mean and be a reference to the Security Agreement, as amended by this Agreement. Without limiting the generality of the foregoing, the Security Documents and all of the Collateral described therein do and shall continue to secure the payment of all Obligations, including under the Credit Documents, as amended by, and after giving effect to, this Agreement, in each case subject to the terms thereof.

(c) Each Credit Party hereby (i) ratifies and reaffirms all of its payment and performance obligations, contingent or otherwise, under each of the Credit Documents to which it is a party, (ii) ratifies and reaffirms each grant of a lien on, or security interest in, its property made pursuant to the Credit Documents (including, without limitation, the grant of security made by such Credit Party pursuant to the Security Agreement) and confirms that such liens and security interests continue to secure the Obligations, including under the Credit Documents, including, without limitation, all Obligations resulting from or incurred pursuant to the Initial Term Loan Facility and Revolving Credit Facility made pursuant hereto, in each case subject to the terms thereof, and (iii) in the case of each Guarantor, ratifies and reaffirms its guaranty of the Obligations pursuant to its respective Guarantee.

(d) The execution, delivery and effectiveness of this Agreement shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Lender or any Agent under any of the Credit Documents, or constitute a waiver of any provision of any of the Credit Documents.

**SECTION 6. Costs, Expenses.** The Borrower agrees to pay on demand all reasonable out of pocket costs and expenses of the Administrative Agent in connection with the preparation, execution and delivery of this Agreement and the other instruments and documents to be delivered hereunder (including, without limitation, the reasonable fees and expenses of counsel for the Administrative Agent) in accordance with the terms of Section 13.5 of the Original Credit Agreement.

**SECTION 7. Execution in Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by telecopier (or other electronic transmission) shall be effective as delivery of a manually executed counterpart of this Agreement.

**SECTION 8. WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

**SECTION 9. GOVERNING LAW.** THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Fourth Amendment Agreement to be executed by their respective officers thereunto duly authorized, as of the date and year first written above.

**LPL HOLDINGS, INC.,  
as Borrower**

By: /s/ Matthew Audette  
Name: Matthew Audette  
Title: Chief Financial Officer

---

**LPL FINANCIAL HOLDINGS INC.,  
as Holdings**

By: /s/ Matthew Audette  
Name: Matthew Audette  
Title: Chief Financial Officer

---

[SIGNATURE PAGE – LPL FOURTH AMENDMENT]

**INDEPENDENT ADVISERS GROUP CORPORATION,  
as a Subsidiary Guarantor**

By: /s/ Mimi Carsley

Name: Mimi Carsley

Title: Treasurer

---

**LPL INDEPENDENT ADVISOR SERVICES GROUP LLC,  
as a Subsidiary Guarantor**

By: /s/ Mimi Carsley

Name: Mimi Carsley

Title: Treasurer

---

**LPL INSURANCE ASSOCIATES, INC.,  
as a Subsidiary Guarantor**

By: /s/ Mimi Carsley

Name: Mimi Carsley

Title: Treasurer

---

[SIGNATURE PAGE – LPL FOURTH AMENDMENT]

**JPMORGAN CHASE BANK, N.A.,  
as Administrative Agent**

By: /s/ Leo Lai

---

Name: Leo Lai

Title: Executive Director

[SIGNATURE PAGE – LPL FOURTH AMENDMENT]

**JPMORGAN CHASE BANK, N.A.,  
as a Letter of Credit Issuer and a Swingline Lender**

By: /s/ Leo Lai

Name: Leo Lai

Title: Executive Director

[SIGNATURE PAGE – LPL FOURTH AMENDMENT]



**MORGAN STANLEY BANK, N.A.,  
as a Letter of Credit Issuer and a Swingline Lender**

By: /s/ Andrew Earls

Name: Andrew Earls

Title: Vice President

---

[SIGNATURE PAGE – LPL FOURTH AMENDMENT]

**BANK OF AMERICA, N.A.,  
as a Letter of Credit Issuer**

By: /s/ Brian Correia

Name: Brian Correia

Title: Assistant Vice President

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[SIGNATURE PAGE – LPL FOURTH AMENDMENT]

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[LENDER SIGNATURE PAGES ON FILE WITH ADMINISTRATIVE AGENT]

[SIGNATURE PAGE – LPL FOURTH AMENDMENT]



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**AMENDED AND RESTATED CREDIT AGREEMENT**

Dated as of March 10, 2017

among

**LPL FINANCIAL HOLDINGS INC.,**  
as Holdings,

**LPL HOLDINGS, INC.,**  
as Borrower,

**The Several Lenders**  
from Time to Time Parties Hereto,

**JPMORGAN CHASE BANK, N.A.,**  
as Administrative Agent and Collateral Agent,

**BANK OF AMERICA, N.A.,**  
**JPMORGAN CHASE BANK, N.A.**  
and  
**MORGAN STANLEY BANK, N.A.,**  
as Letter of Credit Issuers,

**JPMORGAN CHASE BANK, N.A.**  
and  
**MORGAN STANLEY BANK, N.A.,**  
as Swingline Lenders,

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**JPMORGAN CHASE BANK, N.A.,**  
**MORGAN STANLEY SENIOR FUNDING, INC.,**  
**GOLDMAN SACHS BANK USA,**  
**WELLS FARGO SECURITIES, LLC,**  
**CITIGROUP GLOBAL MARKETS INC.,**  
**CITIZENS BANK, N.A.,**  
**CREDIT SUISSE SECURITIES (USA) LLC,**  
**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED**  
and  
**SUNTRUST ROBINSON HUMPHREY, INC.,**  
as Joint Lead Arrangers and Joint Bookrunners,

**BBVA COMPASS,**  
as Syndication Agent

and

**U.S. BANK, N.A.,**  
as Documentation Agent

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## EXHIBITS

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**AMENDED AND RESTATED CREDIT AGREEMENT**, dated as of March 10, 2017, among LPL FINANCIAL HOLDINGS INC. (formerly LPL Investment Holdings Inc.), a Delaware corporation (“Holdings”; as hereinafter further defined), LPL HOLDINGS, INC., a Massachusetts corporation (the “Borrower”), the banks, financial institutions and other investors from time to time parties hereto as lenders (each a “Lender” and, collectively, the “Lenders”; each as hereinafter further defined), JPMORGAN CHASE BANK, N.A., as Administrative Agent, Collateral Agent, a Letter of Credit Issuer and a Swingline Lender, MORGAN STANLEY BANK, N.A., as a Letter of Credit Issuer and a Swingline Lender, and BANK OF AMERICA, N.A., as a Letter of Credit Issuer.

**RECITALS:**

**WHEREAS**, capitalized terms used in these Recitals and the preamble to this Agreement shall have the respective meanings set forth for such terms in Section 1.1 hereof;

**WHEREAS**, Holdings, the Borrower, the lending institutions party thereto (the “Original Lenders”), and JPMorgan Chase Bank, N.A., as administrative agent and as collateral agent, are parties to that certain Credit Agreement, originally dated as of March 29, 2012 (as heretofore amended, restated, supplemented or otherwise modified from time to time prior to the date hereof, the “Original Credit Agreement”), pursuant to which the Original Lenders extended or committed to extend certain credit facilities to the Borrower;

**WHEREAS**, the Borrower has requested that, immediately upon the satisfaction in full of the applicable conditions precedent set forth in Section 6 below, the Lenders and Letter of Credit Issuers extend a total of \$2,200,000,000 of credit to the Borrower, in the form of (i) \$1,700,000,000 in aggregate principal amount of term loans to be borrowed on the Effective Date (the “Initial Term Loan Facility”) and (ii) \$500,000,000 in aggregate principal amount of revolving credit commitments to be made available following the Effective Date (the “Revolving Credit Facility”);

**WHEREAS**, the Borrower intends to use the proceeds of the Initial Term Loans (as defined below) and the Senior Notes (as defined below) to repay all existing indebtedness under the Original Credit Agreement in an aggregate principal amount of approximately \$2,197,360,329.67, at which time all existing commitments, security interests and guarantees in respect of the Original Credit Agreement and the related documents and obligations thereunder will be terminated, released and discharged in full (other than contingent obligations, which by their terms survive such termination) (the “Refinancing”);

**WHEREAS**, in connection with the foregoing and as an inducement for the Lenders and the Letter of Credit Issuers to extend the credit contemplated hereunder, the Borrower has agreed to secure all of its Obligations by granting to the Collateral Agent, for the benefit of the Secured Parties, a first priority lien on substantially all of its assets (except for Liens permitted pursuant to Section 10.2), including a pledge of all of the Capital Stock (other than Excluded Capital Stock) of each of its Subsidiaries; and

**WHEREAS**, in connection with the foregoing and as an inducement for the Lenders and Letter of Credit Issuers to extend the credit contemplated hereunder, the Guarantors

*LPL – A&R Credit Agreement*

have agreed to guarantee the Obligations and to secure their respective guarantees by granting to the Collateral Agent, for the benefit of the Secured Parties, a first priority lien on their respective assets (except for Liens permitted pursuant to Section 10.2), including a pledge of all of the Capital Stock (other than Excluded Capital Stock) of each of their respective Subsidiaries.

#### AGREEMENT:

**NOW, THEREFORE**, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

##### SECTION 1. Definitions

1.1 Defined Terms. As used herein, the following terms shall have the meanings specified in this Section 1.1 unless the context otherwise requires:

“100% Non-Guarantor Pledge” shall mean any Restricted Subsidiary of the Borrower for which 100% of the Capital Stock of which has been pledged as Collateral to secure the Obligations.

“ABR” shall mean, for any day, a fluctuating rate per annum equal to the highest of (a) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by the Administrative Agent as its “prime rate,” and (c) the Eurodollar Rate plus 1.00%. The “prime rate” is a rate set by the Administrative Agent based upon various factors including the Administrative Agent’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. If the Administrative Agent shall have determined (which determination should be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate due to its inability to obtain sufficient quotations in accordance with the terms of the definition thereof, after notice is provided to the Borrower, the ABR shall be determined without regard to clause (a) of the preceding sentence until the circumstances giving rise to such inability no longer exist. Any change in the ABR due to a change in the “prime rate”, the Federal Funds Effective Rate or the Eurodollar Rate shall be effective as of the opening of business on the effective day of such change in the “prime rate”, the Federal Funds Effective Rate or the Eurodollar Rate, respectively.

“ABR Loan” shall mean each Loan bearing interest at the rate provided in Section 2.8(a) and, in any event, shall include all Swingline Loans.

“Acceptable Reinvestment Commitment” shall mean a binding commitment of the Borrower or any Restricted Subsidiary entered into at any time prior to the end of the Reinvestment Period to reinvest the proceeds of an Asset Sale Prepayment Event, Permitted Sale Leaseback or Recovery Prepayment Event.

“Acquired EBITDA” shall mean, with respect to any Acquired Entity or Business or any Converted Restricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Pro Forma Entity (determined as if references to the Borrower

and the Restricted Subsidiaries in the definition of the term “Consolidated EBITDA” were references to such Pro Forma Entity and its subsidiaries that will become Restricted Subsidiaries), all as determined on a consolidated basis for such Pro Forma Entity in accordance with GAAP.

“Acquired Entity or Business” shall have the meaning provided in the definition of the term “Consolidated EBITDA”.

“Additional Lender” shall have the meaning provided in Section 2.14(d).

“acquired Person” shall have the meaning provided in Section 10.1(k).

“Additional/Replacement Revolving Credit Commitment” shall have the meaning provided in Section 2.14(a).

“Additional/Replacement Revolving Credit Facility” shall mean each Class of Additional/Replacement Revolving Credit Commitments made pursuant to Section 2.14(a).

“Additional/Replacement Revolving Credit Lender” shall mean, at any time, any Lender that has an Additional/Replacement Revolving Credit Commitment.

“Additional/Replacement Revolving Credit Loans” shall mean any loan made to the Borrower under a Class of Additional/Replacement Revolving Credit Commitments.

“Adjusted Total Additional/Replacement Revolving Credit Commitment” shall mean, at any time, with respect to any Class of Additional/Replacement Revolving Credit Commitments, the Total Additional/Replacement Revolving Credit Commitment for such Class less the aggregate Additional/Replacement Revolving Credit Commitments of all Defaulting Lenders in such Class.

“Adjusted Total Extended Revolving Credit Commitment” shall mean, at any time, with respect to any Class of Extended Revolving Credit Commitments, the Total Extended Revolving Credit Commitment for such Class less the aggregate Extended Revolving Credit Commitments of all Defaulting Lenders in such Class.

“Adjusted Total Revolving Credit Commitment” shall mean, at any time, the Total Revolving Credit Commitment less the aggregate Revolving Credit Commitments of all Defaulting Lenders.

“Administrative Agent” shall mean JPMorgan or any successor to JPMorgan appointed in accordance with the provisions of Section 12.8, together with its Affiliates, as the administrative agent for the Lenders under this Agreement and the other Credit Documents.

“Administrative Agent’s Office” shall mean the address and, as appropriate, account of the Administrative Agent set forth on Schedule 13.2 or such other address or account as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.

“Affiliate” shall mean, with respect to any Person, another Person that directly or indirectly, through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. The term “Control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. The terms “Controlling” and “Controlled” have meanings correlative thereto.

“Affiliated Lender” shall mean a Non-Debt Fund Affiliate or a Debt Fund Affiliate.

“Affiliated Lender Assignment and Acceptance” shall have the meaning provided in Section 13.6(g)(i)(C).

“Affiliated Lender Register” shall have the meaning provided in Section 13.6(j).

“Agency Fee Letter” shall mean that certain Agency Fee Letter, dated as of October 1, 2014, between the Borrower and the Administrative Agent.

“Agent Parties” shall have the meaning provided in Section 13.2(d).

“Agents” shall mean each of (i) the Administrative Agent and (ii) the Collateral Agent.

“Aggregate Debit Items” shall have the meaning set forth in SEC Rule 15c3-1(a)(1)(ii) and items 10-14 of Exhibit A to SEC Rule 15c3-3.

“Agreement” shall mean this Credit Agreement.

“Amendment” shall mean the Fourth Amendment Agreement, amending the Original Credit Agreement, dated as of March 10, 2017, made by and among Holdings, the Borrower, the Subsidiary Guarantors party thereto, the Lenders party thereto, the Administrative Agent, and the other Persons party thereto.

“Anti-Terrorism Laws” shall have the meaning provided in Section 8.19.

“Applicable Laws” shall mean, as to any Person, any international, foreign, federal, state and local law (including common law and Environmental Laws), statute, regulation, ordinance, treaty, rule, order, code, regulation, decree, guideline, judgment, consent decree, writ, injunction, settlement agreement or governmental requirement enacted, promulgated or imposed or entered into or agreed by any Governmental Authority, in each case applicable to or binding on such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

“Applicable Margin” shall mean a percentage per annum equal to:

(a) with respect to the Initial Term Loans (i) for Eurodollar Loans, 2.50% and (ii) for ABR Loans, 1.50%;

(b) with respect to the Revolving Credit Loans and the Swingline Loans (it being understood that all Swingline Loans shall be ABR Loans), (i) until the Initial Financial Statement Delivery Date, (A) for Eurodollar Loans, 2.00% and (B) for ABR Loans, 1.00% and (ii) thereafter, as set forth on the grid below based upon the Consolidated Secured Debt to Consolidated EBITDA Ratio set forth in the most recent Officer's Certificate received by the Administrative Agent pursuant to Section 9.1(d):

| Pricing Level | Consolidated Secured Debt to Consolidated EBITDA Ratio        | Applicable Margin for Revolving Credit Loans that are Eurodollar Loans | Applicable Margin for Revolving Credit Loans that are ABR Loans, and Swingline Loans |
|---------------|---|--|--|
| 1             | Greater than 2.50:1.00  | 2.00%  | 1.00%  |
| 2             | Less than or equal to 2.50:1.00<br>but greater than 1.75:1.00 | 1.75%  | 0.75%  |
| 3             | Less than or equal to 1.75:1.00                               | 1.50%  | 0.50%  |

Any increase or decrease in the Applicable Margin for the Revolving Credit Loans or Swingline Loans resulting from a change in the Consolidated Secured Debt to Consolidated EBITDA Ratio shall become effective as of the first Business Day immediately following the date Section 9.1 Financials are delivered to the Administrative Agent pursuant to Sections 9.1(a) and 9.1(b); provided that at the option of the Required Credit Facility Lenders, the highest pricing level (as set forth in the table above) shall apply (a) as of the first Business Day after the date on which Section 9.1 Financials were required to have been delivered but have not been delivered pursuant to Section 9.1 and shall continue to so apply to and including the date on which such Section 9.1 Financials are so delivered (and thereafter the pricing level otherwise determined in accordance with this definition shall apply) and (b) as of the first Business Day after an Event of Default under Section 11.1 or Section 11.5 shall have occurred and be continuing and the Administrative Agent has notified the Borrower that the highest pricing level applies, and shall continue to so apply to but excluding the date on which such Event of Default shall cease to be continuing (and thereafter the pricing level otherwise determined in accordance with this definition shall apply).

“Approved Fund” shall mean any Person (other than a natural person) that is primarily engaged or advises funds or other investment vehicles that are engaged in making, purchasing, holding or investing in commercial loans, bonds and similar extensions of credit or securities in the ordinary course of business and that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Asset Sale Prepayment Event” shall mean any Disposition (or series of related Dispositions) of any business unit, asset or property of the Borrower or any Restricted Subsidiary (including any Disposition of any Capital Stock of any Subsidiary of the Borrower owned by the Borrower or any Restricted Subsidiary); provided, that the term “Asset Sale Prepayment Event” shall not include (a) any Recovery Event or Permitted Sale Leaseback or (b) any Disposition (or series of related Dispositions) permitted under clause (a), (b),(d)(i), (e), (f), (h), (l), (m) or (o) of Section 10.4.

“Assignment and Acceptance” shall mean an assignment and acceptance entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 13.6) substantially in the form of Exhibit J.

“Authorized Officer” shall mean the Chairman of the Board, the President, the Chief Executive Officer, the Chief Financial Officer, the Chief Operating Officer, the Treasurer, any Vice President, the Assistant Treasurer, the General Counsel, with respect to limited liability companies or partnerships that do not have officers, any manager, managing member or general partner thereof, any other senior officer of Holdings, the Borrower or any other Credit Party designated as such in writing to the Administrative Agent by Holdings, the Borrower or any other Credit Party, as applicable, and, with respect to any document (other than the solvency certificate) delivered on the Effective Date, the Secretary or the Assistant Secretary of any Credit Party. Any document delivered hereunder that is signed by an Authorized Officer shall be conclusively presumed to have been authorized by all necessary corporate, limited liability company, partnership and/or other action on the part of Holdings, the Borrower or any other Credit Party and such Authorized Officer shall be conclusively presumed to have acted on behalf of such Person.

“Auto-Extension Letter of Credit” shall have the meaning provided in Section 3.2(e).

“Available Amount” shall mean, at any time (the “Available Amount Reference Time”), an amount equal at such time to (a) the sum (which shall not be less than zero) of, without duplication:

(i) the amount (which amount shall not be less than zero) equal to 50% of the Cumulative Consolidated Net Income of the Borrower and the Restricted Subsidiaries;

(ii) to the extent not already included in the calculation of Consolidated Net Income, the aggregate amount of all dividends, returns, interest, profits, distributions, income and similar amounts (in each case, to the extent made in cash) received by the Borrower or any Restricted Subsidiary from any Investment (which amounts shall not exceed the amount of such Investment (valued at the Fair Market Value of such Investment at the time such Investment was made)) to the extent such Investment was made by using the Available Amount during the period from and including the Business Day immediately following the Effective Date through and including the Available Amount Reference Time (other than the portion of any such dividends and other distributions that is used by the Borrower or any Restricted Subsidiary to pay taxes);



(iii) to the extent not already included in the calculation of Consolidated Net Income, the aggregate amount of all cash repayments of principal received by the Borrower or any Restricted Subsidiary from any Investment (which amounts shall not exceed the amount of such Investment (valued at the Fair Market Value of such Investment at the time such Investment was made)) to the extent such Investment was made by using the Available Amount during the period from and including the Business Day immediately following the Effective Date through and including the Available Amount Reference Time in respect of loans made by the Borrower or any Restricted Subsidiary and that constituted Investments;

(iv) to the extent not already included in the calculation of Consolidated Net Income or applied to prepay the Term Loans in accordance with Section 5.2(a)(i) or to prepay or redeem any secured Permitted Additional Debt, the aggregate amount of all Net Cash Proceeds received by the Borrower or any Restricted Subsidiary in connection with the Disposition of its ownership interest in any Investment to any Person other than to the Borrower or a Restricted Subsidiary and to the extent such Investment was made by using the Available Amount during the period from and including the Business Day immediately following the Effective Date through and including the Available Amount Reference Time;

(v) the amount of any Investment of the Borrower or any of its Restricted Subsidiaries in any Unrestricted Subsidiary that has been re-designated as a Restricted Subsidiary pursuant to Section 9.16 or that has been merged, amalgamated or consolidated with or into the Borrower or any of its Restricted Subsidiaries pursuant to Section 10.3, in each case following the Effective Date and at or prior to the Available Amount Reference Time, in each case, such amount not to exceed the lesser of (x) the Fair Market Value of the Investments of the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary immediately prior to giving effect to such re-designation or merger or consolidation and (y) the amount originally invested from the Available Amount by the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary; and

(vi) to the extent not already included in the calculation of Consolidated Net Income, the aggregate amount of any Refused Proceeds retained by the Borrower during the period from and including the Business Day immediately following the Effective Date through and including the Available Amount Reference Time;

minus (b) the sum of, without duplication and without taking into account the proposed portion of the amount calculated above to be used at the applicable Available Amount Reference Time:

(i) the aggregate amount of any Investments made by the Borrower or any Restricted Subsidiary using the amounts set forth in Sections 10.5(i)(B)(3), 10.5(j)(iii), 10.5(s)(ii), and 10.5(x)(C) after the Effective Date and on or prior to the Available Amount Reference Time;

(ii) the aggregate amount of Dividends made by Holdings or the Borrower using the amounts set forth in clause (ii) of Section 10.6(h) after the Effective Date and on or prior to the Available Amount Reference Time; and

(iii) the aggregate amount expended of prepayments, repurchases, redemptions and defeasances made by the Borrower or any Restricted Subsidiary using the amounts set forth in clause (iii)(C) of the proviso to Section 10.7(a) after the Effective Date and on or prior to the Available Amount Reference Time.

“Available Amount Reference Time” shall have the meaning provided in the definition of the term “Available Amount”.

“Available Equity Amount” shall mean, at any time (the “Available Equity Amount Reference Time”), an amount equal to, without duplication, (a) the amount of any capital contributions or other equity issuances (or issuances of Indebtedness that have been converted into or exchanged for Qualified Capital Stock) received as cash equity by the Borrower during the period from and including the Business Day immediately following the Effective Date through and including the Available Equity Amount Reference Time, but excluding (i) all proceeds from the issuance of Disqualified Capital Stock and (ii) any Cure Amount minus (b) the sum, without duplication, and, without taking into account the proposed portion of the Available Equity Amount calculated above to be used at the applicable Available Equity Amount Reference Time, of:

(i) the aggregate amount of any Investments made by the Borrower or any Restricted Subsidiary using the amounts set forth in Section 10.5(i)(iii)(2), Section 10.5(j)(ii), Section 10.5(s)(iii) and Section 10.5(x)(B) after the Effective Date and prior to the Available Equity Amount Reference Time;

(ii) the aggregate amount of any Dividends made by the Borrower using the amounts set forth in clause (iii) of Section 10.6(h) after the Effective Date and prior to the Available Equity Amount Reference Time; and

(iii) the aggregate amount of any prepayments, repurchases or defeasances made by the Borrower using the amounts set forth in clause (iii)(A) of the proviso to Section 10.7(a) after the Effective Date and prior to the Available Equity Amount Reference Time.

“Available Equity Amount Reference Time” shall have the meaning provided in the definition of the term “Available Equity Amount”.

“Available Revolving Credit Commitment” shall mean an amount equal to the excess, if any, of (a) the amount of the Total Revolving Credit Commitment over (b) the sum of (i) the aggregate principal amount of all Revolving Credit Loans (and including Swingline Loans) then outstanding and (ii) the aggregate Letter of Credit Obligations at such time.

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“Bank of America” shall mean Bank of America, N.A.

“Bankruptcy Code” shall mean the provisions of Title 11 of the United States Code, 11 USC §§ 191 et seq., as amended, or any similar federal or state law for the relief of debtors.

“Beneficial Owner” shall mean, in the case of a Lender (including Swingline Lender and Letter of Credit Issuer), the beneficial owner of any amounts payable under any Credit Document for U.S. federal withholding tax purposes.

“Benefited Lender” shall have the meaning provided in Section 13.8(a).

“Board” shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Board of Directors” shall mean, with respect to any Person, (i) in the case of any corporation, the board of directors of such Person, (ii) in the case of any limited liability company, the board of managers of such Person, (iii) in the case of any partnership, the Board of Directors of the general partner of such Person and (iv) in any other case, the functional equivalent of the foregoing.

“Borrower” shall have the meaning provided in the preamble to this Agreement.

“Borrower Materials” shall have the meaning provided in Section 9.1.

“Borrowing” shall mean and include (a) the incurrence of Swingline Loans from any Swingline Lender on a given date (or swingline loans under any Extended Revolving Credit Commitments from any swingline lender thereunder on a given date), (b) the incurrence of one Class and Type of Initial Term Loan on the Effective Date (or resulting from conversions on a given date after the Effective Date) having, in the case of Eurodollar Loans, the same Interest Period (provided that ABR Loans incurred pursuant to Section 2.10(b) shall be considered part of any related Borrowing of Eurodollar Loans), (c) the incurrence of one Type and Class of Incremental Term Loan on an Incremental Facility Closing Date (or resulting from conversions on a given date after the applicable Incremental Facility Closing Date) having, in the case of Eurodollar Loans, the same Interest Period (provided that ABR Loans incurred pursuant to Section 2.10(b) shall be considered part of any related Borrowing of Eurodollar Loans), (d) the incurrence of one Type of Revolving Credit Loan on a given date (or resulting from conversions on a given date) having, in the case of Eurodollar Loans, the same Interest Period (provided that ABR Loans incurred pursuant to Section 2.10(b) shall be considered part of any related Borrowing of Eurodollar Loans), (e) the incurrence of one Type and Class of Additional/Replacement Revolving Credit Loan on a given date (or resulting from conversions on a given date) having, in the case of Eurodollar Loans, the same Interest Period (provided that ABR Loans incurred pursuant to Section 2.10(b) shall be considered part of any related Borrowing of Eurodollar Loans) and (f) the incurrence of one Type of Extended Revolving Credit Loan of a specified Class on a given date (or resulting from conversions on a given date) having, in the case of Eurodollar Loans, the same Interest Period (provided that ABR Loans incurred pursuant to Section 2.10(b) shall be considered part of any related Borrowing of Eurodollar Loans).

“Broker-Dealer Capital Requirement” shall mean the sum of (a) the Clearing Broker-Dealer Minimum Capital, and (b) the Introducing Broker-Dealer Minimum Capital.

“Broker-Dealer Regulated Subsidiary” shall mean any Subsidiary of the Borrower, without respect to SEC Rule 15c(3)-3, that is registered as a broker-dealer under the Exchange Act or any other Applicable Law requiring such registration.

“Broker-Dealer Required Cash” shall mean, as of any date of determination, the greater of (a) the difference of (i) all cash and cash equivalents (including Segregated Cash) on the balance sheet of the Broker-Dealer Regulated Subsidiary as of such date less (ii) all Indebtedness on the balance sheet of the Broker-Dealer Regulated Subsidiary as of such date, other than (A) Indebtedness under Margin Lines of Credit and (B) other Indebtedness that has been approved as regulatory capital for computation of Net Capital (as defined in SEC Rule 15c3-1) less (iii) the Broker-Dealer Surplus Capital of the Broker-Dealer Regulated Subsidiary as of such date and (b) the sum of Calculated Segregated Cash and the Introducing Broker-Dealer Minimum Capital as of such date.

“Broker-Dealer Surplus Capital” shall mean, as of any date of determination, the difference of (a) the Net Capital (as defined in SEC Rule 15c3-1) of the Broker-Dealer Regulated Subsidiary as of such date and (b) the Broker-Dealer Capital Requirement as of such date.

“Business Day” shall mean any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, the state where the Administrative Agent’s Office is located or in New York City or San Diego, California and, if such day relates to any Eurodollar Loan, shall mean any such day that is also a London Banking Day.

“Calculated Segregated Cash” shall mean, as of any date of determination, all cash and “qualified” cash equivalents required to be segregated as calculated as of such date under SEC Rule 15c3-3.

“Capital Expenditures” shall mean, for any period, the aggregate of, without duplication, (a) all expenditures (whether paid in cash or accrued as liabilities) by the Borrower and the Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as additions during such period to property, plant or equipment reflected in the consolidated balance sheet of the Borrower and the Restricted Subsidiaries and (b) all fixed asset additions financed through Capitalized Lease Obligations incurred by the Borrower and the Restricted Subsidiaries and recorded on the balance sheet in accordance with GAAP during such period.

“Capital Stock” shall mean any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation and including membership interests and partnership interests) and, except to the extent constituting Indebtedness, any and all warrants, rights or options to purchase, acquire or exchange any of the foregoing.

“Capitalized Lease” shall mean, as applied to any Person, all leases of property that have been or should be, in accordance with GAAP, recorded as capitalized leases of such Person; provided that (a) all leases of any Person that are or would be characterized as operating leases in accordance with GAAP on the Effective Date (whether or not such operating leases

were in effect on such date) shall continue to be accounted for as operating leases (and not as Capitalized Leases) for purposes of this Agreement regardless of any change in GAAP following the date that would otherwise require such leases to be recharacterized as Capitalized Leases and (b) the Fort Mill Real Property Liabilities shall not be considered a Capitalized Lease for purposes of this Agreement and the other Credit Documents.

“Capitalized Lease Obligations” shall mean, as applied to any Person, all obligations under Capitalized Leases of such Person or any of its Subsidiaries, in each case taken at the amount thereof accounted for as liabilities in accordance with GAAP; provided that all obligations of any Person that are or would be characterized as operating lease obligations in accordance with GAAP on the Effective Date (whether or not such operating lease obligations were in effect on such date) shall continue to be accounted for as operating lease obligations (and not as Capitalized Lease Obligations) for purposes of this Agreement regardless of any change in GAAP following the date that would otherwise require such obligations to be recharacterized as Capitalized Lease Obligations.

“Cash Collateral” shall have the meaning provided in Section 3.8(c).

“Cash Collateralize” shall have the meaning provided in Section 3.8(c).

“Cash Equivalents” shall mean:

- (a) Dollars and, with respect to any Foreign Subsidiaries, other currencies held by such Foreign Subsidiary, in each case in the ordinary course of business;
- (b) securities issued or unconditionally guaranteed or insured by the United States government or any agency or instrumentality thereof, in each case having maturities of not more than 24 months from the date of acquisition thereof;
- (c) securities issued by any state, commonwealth or territory of the United States of America or any political subdivision or taxing authority of any such state, commonwealth or territory or any public instrumentality thereof or any political subdivision or taxing authority of any such state, commonwealth or territory or any public instrumentality thereof having maturities of not more than 24 months from the date of acquisition thereof and, at the time of acquisition, having an investment grade rating generally obtainable from either S&P or Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, then from another nationally recognized rating service);
- (d) commercial paper or variable or fixed rate notes issued by or guaranteed by any Lender or any bank holding company owning any Lender;
- (e) commercial paper or variable or fixed rate notes maturing no more than 12 months after the date of creation thereof and, at the time of acquisition, having a rating of at least A-2 or P-2 from either S&P or Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized rating service);
- (f) time deposits with, or domestic and eurodollar certificates of deposit or

bankers' acceptances maturing no more than two years after the date of acquisition thereof issued by, any Lender or any other bank having combined capital and surplus of not less than \$250,000,000 in the case of U.S. domestic banks and \$100,000,000 (or the Dollar equivalent thereof) in the case of foreign banks;

(g) repurchase agreements with a term of not more than 30 days for underlying securities of the type described in clauses (b), (c) and (f) above entered into with any bank meeting the qualifications specified in clause (f) above or securities dealers of recognized national standing;

(h) marketable short-term money market and similar securities having a rating of at least A-2 or P-2 from either S&P or Moody's (or, if at any time neither S&P nor Moody's shall be rating such obligations, an equivalent rating from another nationally recognized rating service);

(i) investments with average maturities of 12 months or less from the date of acquisition in money market funds rated within the top three ratings category by S&P or Moody's; and

(j) shares of investment companies that are registered under the Investment Company Act of 1940 and the investments of which are comprised of at least 90% of one or more of the types of securities described in clauses (a) through (i) above.

In the case of investments by any Restricted Foreign Subsidiary or investments made in a country outside the United States of America, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (j) above of foreign obligors, which investments or obligors (or the parents of such obligors) have ratings, described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments utilized by Restricted Foreign Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (a) through (j) and in this paragraph.

"Cash Management Agreement" shall mean any agreement entered into from time to time by Holdings, the Borrower or any of its Restricted Subsidiaries in connection with cash management services for collections, other Cash Management Services and for operating, payroll and trust accounts of such Person, including automatic clearing house services, controlled disbursement services, electronic funds transfer services, information reporting services, lockbox services, stop payment services and wire transfer services.

"Cash Management Bank" shall mean any Person that is a Lender, Joint Bookrunner, an Agent or any Affiliate of a Lender, Joint Bookrunner or an Agent at the time it provides any Cash Management Services or that shall have become a Lender or an Affiliate of the Lender at any time after it has provided any Cash Management Services.

"Cash Management Obligations" shall mean obligations owed by Holdings, the Borrower or any Restricted Subsidiary to any Cash Management Bank in connection with, or in respect of, any Cash Management Services.

“Cash Management Services” shall mean (a) commercial credit cards, merchant card services, purchase or debit cards, including non-card e-payables services, (b) treasury management services (including controlled disbursement, overdraft automatic clearing house fund transfer services, return items and interstate depository network services) and (c) any other demand deposit or operating account relationships or other cash management services, including any Cash Management Agreements.

“CFC” shall mean a “controlled foreign corporation” within the meaning of Section 957 of the Code.

“Change in Law” means the occurrence, after the Effective Date, of any of the following: (a) the adoption of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Change of Control” shall mean and be deemed to have occurred if:

(a) any person, entity or “group” (within the meaning of Section 13(d) or 14(d) of the Exchange Act, but excluding any employee benefit plan of such person, entity or “group” and their respective Subsidiaries and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), other than the Permitted Holders, shall at any time have acquired direct or indirect beneficial ownership (as defined in SEC Rules 13(d)-3 and 13(d)-5) of Capital Stock having the power to vote or direct the voting of such Capital Stock having more than the greater of (A) 35% of the ordinary voting power for the election of Board of Directors of Holdings and (B) the percentage of the ordinary voting power for the election of Board of Directors of Holdings owned in the aggregate, directly or indirectly, beneficially, by the Permitted Holders, unless in the case of either clause (A) or (B) above, the Permitted Holders have, at such time, the right or the ability by voting power, contract or otherwise to elect or designate for election at least a majority of the members of the Board of Directors of Holdings;

(b) at any time Continuing Directors shall not constitute at least a majority of the Board of Directors of Holdings;

(c) a “change of control” or any comparable term under any documentation governing any Indebtedness for borrowed money owed to a third party by the Borrower or any of its Restricted Subsidiaries with an aggregate outstanding principal amount in excess of \$35,000,000 shall have occurred;

- (d) Holdings shall cease to beneficially own and control 100% of the Voting Stock of the Borrower; and/or
- (e) the Borrower shall cease to beneficially own and control 100% of the Voting Stock of LPL Financial LLC.

provided that, at any time when at least a majority of the outstanding Voting Stock of Holdings is directly or indirectly owned by a Parent Entity, all references in clause (a) and (b) above to “Holdings” (other than in this proviso) shall be deemed to refer to the ultimate Parent Entity that directly or indirectly owns such Voting Stock of Holdings.

“Class”, when used in reference to any Loan or Borrowing, shall refer to whether such Loan, or the Loans comprising such Borrowing, are Revolving Credit Loans, Initial Term Loans, Incremental Term Loans (of a Class), Extended Term Loans (of the same Extension Series), Extended Revolving Credit Loans (of the same Extension Series and any related swingline loans thereunder), Additional/Replacement Revolving Credit Loans (and any related swingline loans thereunder) or Swingline Loans and, when used in reference to any Commitment, refers to whether such Commitment is a Revolving Credit Commitment, an Initial Term Loan Commitment, an Incremental Term Loan Commitment (of a Class), an Extended Revolving Credit Commitment (of the same Extension Series and any related swingline commitment thereunder), an Additional/Replacement Revolving Credit Commitment (and any related swingline commitment thereunder) or a Swingline Commitment, and when used in reference to any Lender, refers to whether such Lender has a Loan or Commitment of any such Class.

“Clearing Broker-Dealer Minimum Capital” shall mean, for any Subsidiary of the Borrower that is a broker-dealer subject to SEC Rule 15c(3)-3, as of any date of determination, the greater of (a) \$40,000,000 and (b) 15% of Aggregate Debit Items on such date.

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time. Section references to the Code are to the Code, as in effect on the Effective Date, and any subsequent provisions of the Code, amendatory thereof, supplemental thereto or substituted therefor.

“Collateral” shall have the meaning provided for such term or a similar term in each of the Security Documents; provided that with respect to any Mortgages, “Collateral” shall mean “Mortgaged Property” as defined therein.

“Collateral Agent” shall mean JPMorgan or any successor appointed in accordance with the provisions of Section 12.8, together with its Affiliates, as the collateral agent for the Secured Parties.

“Commitment” shall mean, with respect to each Lender (to the extent applicable), such Lender’s Revolving Credit Commitment, Initial Term Loan Commitment, Incremental Term Loan Commitment, Extended Revolving Credit Commitment, Additional/Replacement Revolving Credit Commitment or any combination thereof (as the context requires) and (b) with respect to each Swingline Lender or swingline lender under any Extended Revolving Credit Commitments or Additional/Replacement Revolving Credit Commitment, its respective Swingline Commitment or swingline commitment, as applicable.



“Commitment Fee” shall have the meaning provided in Section 4.1(a).

“Commitment Fee Rate” shall mean a rate equal to (a) until the Initial Financial Statement Delivery Date, 0.50% per annum, and (b) thereafter, the rate per annum determined in accordance with the grid set forth below based upon the Consolidated Secured Debt to Consolidated EBITDA Ratio set forth in the most recent Officer’s Certificate received by the Administrative Agent pursuant to Section 9.1(d). Any increase or decrease in the Commitment Fee Rate resulting from a change in the Consolidated Secured Debt to Consolidated EBITDA Ratio shall become effective as of the first Business Day immediately following the date Section 9.1 Financials are delivered to the Administrative Agent pursuant to Sections 9.1(a) and 9.1(b):

| <u>Consolidated Secured<br/>Debt to Consolidated<br/>EBITDA Ratio</u> | <u>Applicable Revolving<br/>Commitment Fee<br/>Percentage</u> |
|---|---|
| > 2.00:1.00   | 0.50%   |
| £ 2.00:1.00 but > 1.25:1.00   | 0.40%   |
| £ 1.25:1.00   | 0.30%   |

“Commodity Exchange Act” shall mean the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*), as amended from time to time, and any successor statute.

“Confidential Information” shall have the meaning provided in Section 13.16.

“Consolidated EBITDA” shall mean, for any period, the Consolidated Net Income for such period, plus:

(a) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) total interest expense and, to the extent not reflected in such total interest expense, any losses on Hedging Obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income from Cash Equivalents and gains on such Hedging Obligations or such derivative instruments, bank and letter of credit fees, amortization of deferred financing fees or costs and costs of surety bonds in connection with financing activities,

(ii) provision for taxes based on income, profits or capital, including federal, foreign, state, franchise, excise and similar taxes and foreign withholding taxes paid or accrued during such period (including in respect of repatriated funds and any penalties and interest related to such taxes),

(iii) depreciation and amortization (including amortization of intangible assets established through purchase accounting),

(iv) Non-Cash Charges,

(v) [Reserved],

(vi) unusual or non-recurring charges, operating expenses directly attributable to the implementation of cost savings initiatives and executive employment agreements, severance costs, relocation costs (including duplicative running costs), integration costs and facilities' opening costs, signing costs (other than in connection with onboarding advisors), retention or completion bonuses (other than in connection with onboarding advisors), transition costs (other than in connection with onboarding advisors) and costs related to closure and/or consolidation of facilities and other business optimization expenses and reserves,

(vii) restructuring charges, accruals or reserves and related charges (including restructuring costs related to acquisitions prior to and after the Effective Date),

(viii) (A) the amount of management, monitoring, consulting and advisory fees, indemnities and related expenses paid or accrued in such period to (or on behalf of) the Sponsors (including any amortization thereof) and (B) the amount of expenses relating to payments made to option holders of the Borrower or any Parent Entity in connection with, or as a result of, any distribution being made to shareholders of such Person or its direct or indirect parent companies, which payments are being made to compensate such option holders as though they were shareholders at the time of, and entitled to share in, such distribution, in each case to the extent permitted in this Agreement,

(ix) losses on Dispositions, disposals or abandonments (other than Dispositions, disposals or abandonments in the ordinary course of business),

(x) any costs or expenses incurred pursuant to any management equity plan or share option plan or any other management or employee benefit plan or agreement or share subscription or shareholder agreement, to the extent such costs or expenses are funded with cash proceeds contributed to the capital of the Borrower or the net cash proceeds of any issuance of Capital Stock (other than Disqualified Capital Stock) of the Borrower (or any Parent Entity thereof),

(xi) any non-cash loss attributable to the mark-to-market movement in the valuation of Hedging Obligations (to the extent the cash impact resulting from such loss has not been realized) or other derivative instruments pursuant to Accounting Standards Codification 815,

(xii) any loss relating to amounts paid in cash prior to the stated settlement date of any Hedging Obligation that has been reflected in Consolidated Net Income for such period,

(xiii) any gain relating to Hedging Obligations associated with transactions realized in the current period that has been reflected in Consolidated Net Income in prior periods and excluded from Consolidated EBITDA pursuant to clauses (b)(vi) and (b)(vii) below,

(xiv) cash receipts (or any netting arrangements resulting in reduced cash expenses) not included in Consolidated EBITDA in any period to the extent non-cash gains relating to such receipts were deducted in the calculation of Consolidated EBITDA pursuant to paragraph (b) below for any previous period and not added back,

(xv) any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any Investment, acquisition or any sale, conveyance, transfer or other Disposition of assets permitted under this Agreement, to the extent actually indemnified or reimbursed, or, so long as the Borrower has received notification from the applicable provider that it intends to indemnify or reimburse such expenses, charges or losses and such amount is in fact indemnified or reimbursed within 365 days of the date of such notification,

(xvi) to the extent covered by insurance and actually reimbursed, or, so long as the Borrower has received notification from the insurer such amount will be reimbursed by the insurer and only to the extent that such amount is in fact reimbursed within 365 days of the date of such notification, expenses, charges or losses with respect to liability or casualty events or business interruption, and

(xvii) amounts paid or reserved in connection with earn-out obligations in connection with any acquisition of a business or Person,

less

(b) without duplication and to the extent included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) unusual or non-recurring gains,

(ii) [Reserved],

(iii) non-cash gains,

(iv) gains on Dispositions, disposals or abandonments (other than Dispositions, disposals or abandonments in the ordinary course of business),

(v) any non-cash gain attributable to the mark-to-market movement in the valuation of Hedging Obligations (to the extent the cash impact resulting from such gain has not been realized) or other derivative instruments pursuant to Accounting Standards Codification 815,

(vi) any gain relating to amounts received in cash prior to the stated settlement date of any Hedging Obligation that has been reflected in Consolidated Net Income in such period,

(vii) any loss relating to Hedging Obligations associated with transactions realized in the current period that has been reflected in Consolidated Net Income in any prior period and excluded from Consolidated EBITDA pursuant to clause (a)(xii) or (a)(xiii) above, and

(viii) any expenses, charges or losses included in Consolidated EBITDA in any prior period pursuant to clauses (a)(xv) or (a)(xvi) of this definition, but not in fact indemnified or reimbursed, as the case may be, within 365 days of the date of notification as described in such clause,

plus

an adjustment equal to the amount, without duplication of any amount otherwise included in any other clause of the definition of “Consolidated EBITDA”, of the Pro Forma Adjustment shall be added to Consolidated EBITDA (including the portion thereof occurring prior to the relevant acquisition or Disposition) as specified in the Pro Forma Adjustment Certificate delivered to the Administrative Agent (for further delivery to the Lenders),

in each case, as determined on a consolidated basis for the Borrower and the Restricted Subsidiaries in accordance with GAAP; provided that,

(I) to the extent included in the Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA currency translation or transaction gains and losses related to currency remeasurements of Indebtedness (including the net loss or gain resulting from Hedging Agreements for currency exchange risk);

(II) there shall be included in determining Consolidated EBITDA for any period, without duplication, the Acquired EBITDA of any Person, property, business or asset acquired by the Borrower or any Restricted Subsidiary during such period (other than any Unrestricted Subsidiary) to the extent not subsequently sold, transferred or otherwise disposed of during such period (but not including the Acquired EBITDA of any related Person, property, business or assets to the extent not so acquired) (each such Person, property, business or asset acquired, including pursuant to a transaction consummated prior to the Effective Date, and not subsequently so disposed of, an “Acquired Entity or Business”), and the Acquired EBITDA of any Unrestricted Subsidiary that is converted into a Restricted Subsidiary during such period (each, a “Converted Restricted Subsidiary”), in each case based on the Acquired EBITDA of such Pro Forma Entity for such period (including the portion thereof occurring prior to such acquisition or conversion) determined on a historical Pro Forma Basis; and

(III) there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset (other than any Unrestricted Subsidiary) sold, transferred or otherwise Disposed of, closed or classified as discontinued operations by the Borrower or any Restricted Subsidiary to the extent not subsequently reacquired, reclassified or continued, in each case, during such period (each such Person, property, business or asset so sold, transferred or otherwise Disposed of or closed, a “Sold Entity or Business”), and the Disposed EBITDA of any Restricted Subsidiary that is converted into an Unrestricted Subsidiary during such period (each, a “Converted Unrestricted Subsidiary”), in each case based on the Disposed EBITDA of

such Pro Forma Entity for such period (including the portion thereof occurring prior to such sale, transfer, disposition, closure, reclassification or conversion) determined on a historical Pro Forma Basis; provided that notwithstanding any classification under GAAP of any Person or business in respect of which a definitive agreement for the Disposition thereof has been entered into as discontinued operations, the Disposed EBITDA of such Person or business shall not be excluded pursuant to this paragraph (III) until such Disposition shall have been consummated.

Notwithstanding anything to the contrary contained herein and subject to adjustment as provided in clauses (II) and (III) of the immediately preceding proviso with respect to acquisitions and Dispositions occurring following the Effective Date and adjustments as provided under clause (c) above, Consolidated EBITDA shall be deemed to be \$133,147,000, \$132,534,000, \$142,970,000, and \$143,821,000 for the fiscal-quarters ended December 31, 2016, September 30, 2016, June 30, 2016 and March 31, 2016, respectively.

“Consolidated EBITDA to Consolidated Interest Expense Ratio” shall mean, as of any date of determination, the ratio of (a) Consolidated EBITDA for the most recently ended Test Period ended on or prior to such date of determination to (b) Consolidated Interest Expense for such Test Period; provided that, for purposes of calculating the Consolidated EBITDA to Consolidated Interest Expense Ratio for any period ending prior to the first anniversary of the Effective Date, Consolidated Interest Expense shall be an amount equal to actual Consolidated Interest Expense from the Effective Date through the date of determination multiplied by a fraction the numerator of which is 365 and the denominator of which is the number of days from the Effective Date through the date of determination. In the event that the Borrower or any Restricted Subsidiary incurs, assumes, guarantees, repays, redeems, retires or extinguishes any Indebtedness (other than Indebtedness incurred under any revolving credit facility that has not been permanently repaid) subsequent to the commencement of the period for which the Consolidated EBITDA to Consolidated Interest Expense Ratio is being calculated, but prior to or simultaneously with the event for which the calculation of the Consolidated EBITDA to Consolidated Interest Expense Ratio is made, then the Consolidated EBITDA to Consolidated Interest Expense Ratio shall be calculated giving Pro Forma Effect to such incurrence, assumption, guarantee, repayment, redemption, retirement or extinguishing of Indebtedness as if the same had occurred at the beginning of the applicable Test Period.

“Consolidated Interest Expense” shall mean, for any period, the cash interest expense (including that attributable to Capitalized Leases in accordance with GAAP), net of cash interest income from Cash Equivalents, of the Borrower and the Restricted Subsidiaries on a consolidated basis with respect to all outstanding Indebtedness of the Borrower and the Restricted Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing and net costs under Hedging Agreements for Indebtedness, but excluding, however, (a) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses, pay-in-kind interest expense, the amortization of original issue discount resulting from Indebtedness below par and any other amounts of non-cash interest (including as a result of the effects of purchase accounting), (b) the accretion or accrual of discounted liability during such period, (c) any interest in respect of items excluded from Indebtedness in the proviso to the definition thereof, (d) any non-cash interest expense attributable to the movement in the mark-to-market valuation of Hedging Obligations or

other derivative instruments pursuant to Accounting Standards Codification 815, (e) any one-time cash costs associated with breakage costs in respect of interest rate Hedging Agreements, (f) any interest expense in respect of Indebtedness outstanding under any Margin Lines of Credit, (g) all additional interest or liquidated damages then owing pursuant to any registration rights agreement and any comparable “additional interest” or liquidated damages with respect to other securities designed to compensate the holders thereof for a failure to publicly register such securities, (h) any expense resulting from the discounting of any Indebtedness in connection with the application of recapitalization accounting or, if applicable, purchase accounting, and (i) any expensing of commitment and other financing fees (excluding, for the avoidance of doubt, the Commitment Fee).

“Consolidated Net Income” shall mean, for any period, the net income (loss) attributable to the Borrower and the Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, excluding, without duplication,

(a) extraordinary items for such period,

(b) the cumulative effect of a change in accounting principles during such period to the extent included in Consolidated Net Income,

(c) Transaction Expenses and any fees and expenses (including any commissions, discounts, and other fees or charges) incurred during such period, or any amortization thereof for such period, in connection with any acquisition, investment, asset disposition, issuance or repayment of debt, issuance of equity securities, refinancing or recapitalization transaction or amendment or other modification of any debt instrument (in each case, including any such transaction consummated prior to the Effective Date and any such transaction undertaken but not completed and/or not successful) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction,

(d) any income (loss) for such period attributable to the early extinguishment of Indebtedness (including Term Loans), Hedging Agreements or other derivative instruments,

(e) accruals and reserves that are established or adjusted in accordance with GAAP or changes as a result of the adoption or modification of accounting policies during such period,

(f) stock-based, partnership interest-based and similar incentive-based compensation award or arrangement expenses (including with respect to any profits interest relating to membership interests in any partnership or limited liability company),

(g) any income (loss) for such period of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting, shall be excluded; provided that Consolidated Net Income of the Borrower shall be increased by the amount of dividends or distributions or other payments that are actually paid in cash or Cash Equivalents (or, if not paid in cash or Cash Equivalents, but later converted into cash or Cash Equivalents, upon such conversion) to the referent Person or a Restricted Subsidiary thereof in respect of such period, and

(h) any income (loss) for such period resulting from the purchase or acquisition, and subsequent cancellation, of any Term Loans hereunder by any Purchasing Borrower Party pursuant to the provisions of Section 13.6.

There shall be included in Consolidated Net Income, without duplication, the amount of any cash tax benefits related to the tax amortization of intangible assets in such period.

There shall be excluded from Consolidated Net Income for any period the effects from applying purchase accounting, including applying purchase accounting to inventory, property and equipment, software and other intangible assets and deferred revenue required or permitted by GAAP and related authoritative pronouncements (including the effects of such adjustments pushed down to the Borrower and the Restricted Subsidiaries), as a result of the Transactions, any acquisition consummated prior to the Effective Date and any Permitted Acquisitions (or Investments similar to those made for Permitted Acquisitions) or the amortization or write-off of any amounts thereof.

“Consolidated Secured Debt” shall mean, as of any date of determination, (a) the sum, without duplication, of (i) the aggregate principal amount of Consolidated Total Debt as of such date of determination that is secured by a Lien on any of the assets or property of the Borrower or any Restricted Subsidiary and (ii) solely for purposes of determining the Borrower’s or any Restricted Subsidiary’s ability to incur additional Indebtedness under the Incurrence-Based Incremental Amount (for purposes of Section 2.14(b)(B) and 10.1(v)(ii)), the aggregate principal amount of all unsecured, subordinated or junior lien Permitted Additional Debt incurred (or to be incurred, subject to such determination) under Section 10.1(v)(ii), minus (b) the sum of (i) the aggregate amount of cash and cash equivalents included in the cash accounts not identified as “restricted” on the consolidated balance sheet of the Borrower and the Restricted Subsidiaries as at such date plus (ii) all Segregated Cash as at such date, to the extent that such sum exceeds the amount of Required Cash and to the extent the use thereof for application to the payment of Indebtedness is not otherwise prohibited by law or any contract to which the Borrower or any of the Restricted Subsidiaries is a party minus (c) all Indebtedness of the Borrower and the Restricted Subsidiaries outstanding under any Margin Lines of Credit on such date; provided that the amounts described in clause (b) above shall not exceed \$300,000,000 in the aggregate. It is understood that to the extent the Borrower or any Restricted Subsidiary issues or incurs any Indebtedness hereunder and receives the proceeds of such Indebtedness, for purposes of determining any incurrence test under this Agreement and whether the Borrower is in Pro Forma Compliance with any such test, the proceeds of such issuances or incurrence shall not be considered cash for purposes of any “netting” pursuant to clause (b) of this definition.

“Consolidated Secured Debt to Consolidated EBITDA Ratio” shall mean, as of any date of determination, the ratio of (a) Consolidated Secured Debt as of the last day of the most recently ended Test Period on or prior to such date of determination to (b) Consolidated EBITDA for such Test Period.

“Consolidated Total Assets” shall mean, as of any date of determination, the total amount of all assets of the Borrower and the Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP as of such date.

“Consolidated Total Debt” shall mean, as of any date of determination, the sum of the aggregate principal amount of indebtedness of the Borrower and the Restricted Subsidiaries outstanding on such date, determined on a consolidated basis in accordance with GAAP (but excluding the effects of any discounting of indebtedness resulting from the application of purchase accounting in connection with any Permitted Acquisition or Investments similar to those made for Permitted Acquisitions), consisting of indebtedness for borrowed money, Unpaid Drawings, Capitalized Lease Obligations and debt obligations evidenced by promissory notes or similar instruments.

“Consolidated Total Debt to Consolidated EBITDA Ratio” shall mean, as of any date of determination, the ratio of (a) (x) Consolidated Total Debt as of the last day of the most recently ended Test Period on or prior to such date of determination minus (y) the sum of (i) the aggregate amount of cash and cash equivalents included in the cash accounts not identified as “restricted” on the consolidated balance sheet of the Borrower and the Restricted Subsidiaries as at such date plus (ii) all Segregated Cash as at such date, to the extent that such sum exceeds the amount of Required Cash and to the extent the use thereof for application to the payment of Indebtedness is not otherwise prohibited by law or any contract to which the Borrower or any of the Restricted Subsidiaries is a party minus (z) all Indebtedness of the Borrower and the Restricted Subsidiaries outstanding under any Margin Lines of Credit on such date to (b) Consolidated EBITDA for such Test Period; provided that the amounts described in clause (a)(y) above shall not exceed \$300,000,000 in the aggregate. It is understood that to the extent the Borrower or any Restricted Subsidiary issues or incurs any Indebtedness hereunder and receives the proceeds of such Indebtedness, for purposes of determining any incurrence test under this Agreement and whether the Borrower is in Pro Forma Compliance with any such test, the proceeds of such issuances or incurrence shall not be considered cash for purposes of any “netting” pursuant to clause (b) of this definition.

“Continuing Director” shall mean, at any date, an individual (a) who is a member of the Board of Directors of Holdings on the Closing Date, (b) who, as at such date, has been a member of such Board of Directors for at least the 12 preceding months, (c) who has been nominated or designated to be a member of such Board of Directors, directly or indirectly, by the Permitted Holders or Persons nominated or designated by the Permitted Holders or (d) who has been nominated or designated to be, or designated as, a member of such Board of Directors by a majority of the other Continuing Directors then in office; provided that, at any time when at least a majority of the outstanding Voting Stock of Holdings is directly or indirectly owned by a Parent Entity, all references in this definition to “Holdings” (other than in this proviso) shall be deemed to refer to the ultimate Parent Entity that directly or indirectly owns such Voting Stock of Holdings.

“Contract Consideration” shall have the meaning provided in the definition of the term “Excess Cash Flow”.

“Contractual Obligation” shall mean, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound other than the Obligations.



“Converted Restricted Subsidiary” shall have the meaning provided in the definition of the term “Consolidated EBITDA”.

“Converted Unrestricted Subsidiary” shall have the meaning provided in the definition of the term “Consolidated EBITDA”.

“Corrective Extension Amendment” shall have the meaning provided in Section 2.15(e).

“Credit Agreement Refinancing Indebtedness” shall mean (a) Permitted First Priority Refinancing Debt, (b) Permitted Junior Priority Refinancing Debt or (c) Permitted Unsecured Refinancing Debt; provided that, in each case, such Indebtedness is issued, incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to modify, extend, refinance, renew, replace or refund, in whole or in part, existing Term Loans or existing Revolving Credit Loans (or unused Revolving Credit Commitments), any then-existing Additional/Replacement Revolving Credit Loans (or unused Additional/Replacement Revolving Credit Commitments), any then-existing Extended Revolving Credit Loans (or unused Extended Revolving Credit Commitments), or any Loans under any then-existing Incremental Facility (or, if applicable, unused Commitments thereunder), or any then-existing Credit Agreement Refinancing Indebtedness (“Refinanced Debt”); provided, further, that (i) the covenants, events of default and guarantees of such Indebtedness (excluding, for the avoidance of doubt, interest rates, interest margins, rate floors, funding discounts, fees, financial maintenance covenants and prepayment or redemption premiums and terms) (when taken as a whole) are not materially more favorable to the lenders or holders providing such Indebtedness than those applicable to the Refinanced Debt (other than covenants or other provisions applicable only to periods after the Latest Maturity Date)(provided that in the event any financial maintenance covenant under any Credit Agreement Refinancing Indebtedness is materially more favorable to such lenders or holders than the Financial Performance Covenants, the Financial Performance Covenants shall be deemed modified on or prior to the date of the incurrence of such Credit Agreement Refinancing Indebtedness so that they are equally favorable to the holders of the Refinanced Debt as such financial maintenance covenants are to the holders of such Credit Agreement Refinancing Indebtedness), (ii) in the case of any such Indebtedness in the form of notes or debentures or which modifies, extends, refinances, renews, replaces or refunds, in whole or in part, existing Term Loans, shall have a maturity that is no earlier than the maturity of the Refinanced Debt and a Weighted Average Life to Maturity equal to or greater than the Refinanced Debt, (iii) in the case of any such Indebtedness which modifies, extends, refinances, renews, replaces or refunds any existing Revolving Credit Loans (or unused Revolving Credit Commitments), any then-existing Additional/Replacement Revolving Credit Loans (or unused Additional/Replacement Revolving Credit Commitments) or any then-existing Extended Revolving Credit Loans (or unused Extended Revolving Credit Commitments) shall have a maturity that is no earlier than the maturity of such Refinanced Debt, (iv) except to the extent otherwise permitted under this Agreement (subject to a dollar for dollar usage of any other basket set forth in Section 10.1, if applicable), such Indebtedness shall not have a greater principal amount (or accreted value, if applicable) than the principal amount (or accreted value, if applicable) of the Refinanced Debt plus accrued interest, fees and premiums (if any) thereon and fees and expenses associated with the refinancing plus an amount equal to any existing commitments unutilized and letters of credit

undrawn, (v) such Refinanced Debt shall be repaid, defeased or satisfied and discharged on a dollar-for-dollar basis, and all accrued interest, fees and premiums (if any) in connection therewith shall be paid, substantially concurrently with the date such Credit Agreement Refinancing Indebtedness is issued, incurred or obtained, (vi) except to the extent otherwise permitted hereunder, the aggregate unused revolving commitments under such Credit Agreement Refinancing Indebtedness shall not exceed the unused Revolving Credit Commitments, Additional/Replacement Revolving Credit Commitments or Extended Revolving Credit Commitments, as applicable, being replaced plus undrawn letters of credit and (vii) in the case of any such Indebtedness in the form of notes or debentures or which extends, renews, replaces or refinances, in whole or in part, existing Term Loans, shall not require any mandatory repayment or redemption (other than (x) in the case of notes or debentures, customary change of control, asset sale event or casualty or condemnation event offer and customary acceleration any time after an event of default or upon any Event of Default and (y) in the case of any term loans, mandatory prepayments that are on terms not more favorable to the lenders or holders providing such Indebtedness than those applicable to the Refinanced Debt) prior to the 91st day after the maturity date of the Refinanced Debt.

“Credit Documents” shall mean this Agreement, the Guarantee, the Security Documents, the Agency Fee Letter, each Letter of Credit, any promissory notes issued by the Borrower hereunder, any Incremental Agreement, any Extension Agreement and any Customary Intercreditor Agreement entered into after the Effective Date to which the Collateral Agent and/or Administrative Agent is a party.

“Credit Event” shall mean and include the making (but not the conversion or continuation) of a Loan and the issuance, or increase in the amount, of a Letter of Credit.

“Credit Facility” shall mean any of the Initial Term Loan Facility, any Incremental Term Loan Facility, the Revolving Credit Facility, any Additional/Replacement Revolving Credit Facility, any Extended Term Loan Facility or any Extended Revolving Credit Facility, as applicable.

“Credit Party” shall mean the Borrower and each of the Guarantors.

“Cumulative Consolidated Net Income” shall mean, as at any date of determination, Consolidated Net Income for the period (taken as one accounting period) commencing on January 1, 2017 and ending on the last day of the most recent fiscal quarter for which Section 9.1 Financials have been delivered.

“Cure Amount” shall have the meaning provided in Section 11.12(a).

“Cure Deadline” shall have the meaning provided in Section 11.12(a).

“Cure Right” shall have the meaning provided in Section 11.12(a).

“Customary Intercreditor Agreement” shall mean (a) to the extent executed in connection with the incurrence of secured Indebtedness, the security of which is not intended to rank junior or senior to the Liens securing the Obligations (but without regard to the control of remedies), at the option of the Borrower and the Administrative Agent acting together, either

(i) any intercreditor agreement substantially in the form of the Senior Priority Lien Intercreditor Agreement or (ii) a customary intercreditor agreement in a form reasonably acceptable to the Administrative Agent and the Borrower, which agreement shall provide that the Liens securing such Indebtedness shall not rank junior or senior to the Lien securing the Obligations (but without regard to the control of remedies) and (b) to the extent executed in connection with the incurrence of secured Indebtedness, the security of which is intended to rank junior to the Liens securing the Obligations, at the option of the Borrower and the Administrative Agent acting together, either (i) an intercreditor agreement substantially in the form of the Junior Priority Lien Intercreditor Agreement or (ii) a customary intercreditor agreement in a form reasonably acceptable to the Administrative Agent and the Borrower, which agreement shall provide that the Liens securing such Indebtedness shall rank junior to the Lien securing the Obligations.

“Debt Fund Affiliate” shall mean any Affiliate of Holdings (other than Holdings, the Borrower or any Subsidiary of the Borrower) that is primarily engaged in, or advises funds or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit or securities in the ordinary course and with respect to which any Sponsor does not, directly or indirectly, possess the power to direct or cause the direction of the investment policies of such Affiliate.

“Debt Incurrence Prepayment Event” shall mean any issuance or incurrence by the Borrower or any of the Restricted Subsidiaries of any Indebtedness, but excluding Indebtedness permitted to be issued or incurred under Section 10.1 (other than Incremental Term Loans incurred in reliance on clause (i) of the proviso to Section 2.14(b), Permitted Additional Debt incurred in reliance on Section 10.1(v)(i) and, to the extent relating to Term Loans, Credit Agreement Refinancing Indebtedness).

“Debtor Relief Laws” shall mean the Bankruptcy Code, and any other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

“Default” shall mean any event, act or condition that with notice or lapse of time, or both, would constitute an Event of Default.

“Defaulting Lender” shall mean any Lender that (a) has failed to fund, or has notified the Borrower, the Administrative Agent, any Letter of Credit Issuer, any Swingline Lender (or any letter of credit issuer or swingline lender under any Extended Revolving Credit Facility or Additional/Replacement Revolving Credit Facility) or any Lender in writing that it does not intend to fund, any portion of the Revolving Credit Loans, Additional/Replacement Revolving Credit Loans, Extended Revolving Credit Loans (and/or related letters of credit participations or participations in swingline loans), Letter of Credit Participations or participations in Swingline Loans required to be funded by it hereunder within two Business Days of the date required to be funded by it hereunder, (b) has otherwise failed to pay over to the Administrative Agent, any Letter of Credit Issuer, any Swingline Lender (or any letter of credit issuer or swingline lender under any Extended Revolving Credit Facility or Additional/Replacement Revolving Credit Facility) or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due, (c) notified

the Borrower or the Administrative Agent, any Letter of Credit Issuer, any Swingline Lender (or any letter of credit issuer or swingline lender under any Extended Revolving Credit Facility) or any Lender in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement or provided any written notification to any Person to the effect that it does not intend to comply with its funding obligations under this Agreement or under other agreements in which it commits to extend credit, has made a public statement or provided any written notification to any Person to the effect that it does not intend to comply with its funding obligations under this Agreement or under other agreements in which it commits to extend credit or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Capital Stock in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be reasonable, conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Borrower, each Letter of Credit Issuer, each Swingline Lender and each other Lender promptly following such determination.

“Designated Non-Cash Consideration” shall mean the Fair Market Value of non-cash consideration received by the Borrower or its Restricted Subsidiaries in connection with a Disposition pursuant to Section 10.4(c) that is designated as Designated Non-Cash Consideration pursuant to a certificate of an Authorized Officer of the Borrower delivered to the Administrative Agent, setting forth the basis of such valuation (which amount will be reduced by the Fair Market Value of the portion of the non-cash consideration converted to cash within 180 days following the consummation of the applicable Disposition).

“Disposed EBITDA” shall mean, with respect to any Sold Entity or Business or Converted Unrestricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business or Converted Unrestricted Subsidiary (determined as if references to the Borrower and the Restricted Subsidiaries in the definition of the term “Consolidated EBITDA” (and in the component financial definitions used therein) were references to such Sold Entity or Business and its Subsidiaries or to such Converted Unrestricted Subsidiary and its Subsidiaries), all as determined on a consolidated basis for such Sold Entity or Business.

“Disposition” shall have the meaning provided in Section 10.4.

“Disqualified Capital Stock” shall mean any Capital Stock that, by its terms (or by the terms of any security or other Capital Stock into which it is convertible or for which it is putable or exchangeable) or upon the happening of any event or condition, (a) matures or is mandatorily redeemable (other than solely for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise, other than as a result of a change of control, asset sale event or casualty or condemnation event and customary acceleration any time after an event of default so long as any rights of the holders thereof upon the occurrence of a change of control, asset sale event or casualty or condemnation event and customary acceleration any time after an event of default shall be subject to the prior repayment in full of the Loans and all other Obligations (other than Hedging Obligations under any Secured Hedging Agreement, Cash Management Obligations under Secured Cash Management Agreements or contingent indemnification obligations), or (b) is redeemable or exchangeable at the option of the holder thereof (other than solely for Qualified Capital Stock), other than as a result of a change of control, asset sale or casualty or condemnation event so long as any rights of the holders thereof upon the occurrence of a change of control, asset sale event or casualty or condemnation event shall be subject to the prior repayment in full of the Loans and all other Obligations (other than Hedging Obligations under any Secured Hedging Agreement, Cash Management Obligations under Secured Cash Management Agreements or contingent indemnification obligations), in whole or in part, or (c) provides for the scheduled payment of dividends in cash, in each case prior to the date that is 91 days after the Latest Maturity Date; provided that if such Capital Stock is issued pursuant to any plan for the benefit of employees of Holdings (or any Parent Entity thereof), the Borrower or any of its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by Holdings (or any Parent Entity thereof), the Borrower or any of its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

“Disqualified Lenders” shall mean any bank, financial institution or other institutional lender or investor and those Persons who are competitors of the Borrower that have been, in each case, separately identified in writing by the Borrower or the Sponsors and acknowledged by the Administrative Agent by notice to the Borrower prior to the Effective Date.

“Dividends” shall have the meaning provided in Section 10.6.

“Documentation Agent” shall mean the Person identified on the cover page of this Agreement as such, in its capacity as documentation agent under this Agreement.

“Dollars” and “\$” shall mean dollars in lawful currency of the United States of America.

“Domestic Subsidiary” shall mean each Subsidiary of the Borrower that is organized under the Applicable Laws of the United States, any state thereof, or the District of Columbia.

“Drawing” shall have the meaning provided in Section 3.4(b).

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA

Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“Effective Date” shall mean the date upon which the conditions set forth in Section 6 are satisfied, which date is March 10, 2017.

“Effective Yield” shall mean, as to any Loans of any Class, the effective yield on such Loans as determined by the Borrower and the Administrative Agent, taking into account the applicable interest rate margins, any interest rate floors (the effect of which floors shall be determined in the manner set forth in the proviso below) or similar devices and all fees, including upfront or similar fees or original issue discount (amortized over the shorter of (x) the remaining Weighted Average Life to Maturity of such Loans and (y) the four years following the date of incurrence thereof) payable generally to Lenders making such Loans, but excluding any amendment fees, consent fees, arrangement fees, structuring fees, commitment fees, underwriting fees, placement fees, advisory fees, success fees, ticking fees, undrawn commitment fees and similar fees (regardless of whether any of the foregoing fees are paid to, or shared with, in whole or in part any lender) or any other fees not paid or payable generally to all lenders ratably; provided that, with respect to any Loans that include a “LIBOR floor”, (1) to the extent that the Reference Rate on the date that the Effective Yield is being calculated is less than such floor, the amount of such difference shall be deemed added to the interest rate margin for such Loans for the purpose of calculating the Effective Yield and (2) to the extent that the Reference Rate on the date that the Effective Yield is being calculated is greater than such floor, then the floor shall be disregarded in calculating the Effective Yield.

“Eligible Assignee” shall mean (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund and (d) any other Person (subject, in each case, to such consents, if any, as may be required under Section 13.6(b)), other than, in each case, (i) a natural person, (ii) a Defaulting Lender or (iii) a Disqualified Lender.

“Environmental Claims” shall mean any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations (other than internal reports prepared by the Borrower or any of its Subsidiaries (a) in the ordinary course of such Person’s business or (b) as required in connection with a financing transaction or an acquisition or disposition of real estate) or proceedings relating in any way to any Environmental Law or any permit issued, or any approval given, under any such Environmental Law (hereinafter, “Claims”), including (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (ii) any and all

Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from the Release or threatened Release of Hazardous Materials or arising from alleged injury or threat of injury to health, safety or the environment.

“Environmental Law” shall mean any applicable Federal, state, foreign or local statute, law, rule, regulation, ordinance, code and rule of common law now or hereafter in effect and in each case as amended, and any binding judicial or administrative interpretation thereof, including any binding judicial or administrative order, consent decree or judgment, in each case relating to pollution or the protection of the environment or, to the extent relating to exposure to chemicals, materials or substances that are harmful or deleterious to the environment, human health or safety.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time. Section references to ERISA are to ERISA as in effect on the Effective Date and any subsequent provisions of ERISA amendatory thereof, supplemental thereto or substituted therefor.

“ERISA Affiliate” shall mean each person (as defined in Section 3(9) of ERISA) that together with Holdings, the Borrower or a Subsidiary thereof would be deemed to be a “single employer” within the meaning of Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“Eurodollar Borrowing” shall mean each Borrowing of a Eurodollar Loan.

“Eurodollar Loan” shall mean any Loan bearing interest at rate determined by reference to the Eurodollar Rate.

“Eurodollar Rate” shall mean:

(a) for any Interest Period with respect to a Eurodollar Loan, the rate per annum equal to (i) the London interbank offered rate as administered by ICE Benchmark Administration or such other rate per annum as is widely recognized as the successor thereto if the ICE Benchmark Administration is no longer making a London interbank offered rate available (“LIBOR”), as published by Bloomberg or such other commercially available information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion, in each case, at approximately 11:00 a.m. (London time) two London Banking Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, (ii) if LIBOR is not available at such time for any reason, then the “Eurodollar Rate” for such Interest Period shall be the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Eurodollar Loan being made, continued or converted by the Administrative Agent and with a term equivalent to such Interest Period would be offered

by the Administrative Agent's London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two London Banking Days prior to the commencement of such Interest Period, or (iii) if for any reason sub-clauses (i) and (ii) of this clause (a) are not available, as reasonably determined by the Administrative Agent, then the "Eurodollar Rate" for such Interest Period (an "Impacted Interest Period") shall be the Interpolated Rate; and

(b) for any interest calculation with respect to an ABR Loan on any date, the rate per annum equal to (i) LIBOR at approximately 11:00 a.m. (London time) determined two London Banking Days prior to such date for Dollar deposits being delivered in the London interbank market for a term of one month commencing that day (or if such day is not a London Banking Day, for a term of one month commencing on the London Banking Day immediately preceding such day) or (ii) if such LIBOR is not available at such time for any reason, the rate per annum determined by the Administrative Agent to be the rate at which deposits in Dollars for delivery on the date of determination in same-day funds in the approximate amount of the ABR Loan being made or maintained and with a term equal to one month would be offered by the Administrative Agent's London Branch to major banks in the London interbank eurodollar loan market at their request at the date and time of determination, or (iii) if for any reason sub-clauses (i) and (ii) of this clause (b) are not available, as reasonably determined by the Administrative Agent, then the "Eurodollar Rate" for such purpose shall be the Interpolated Rate for Dollars, with an Interest Period of one month;

provided that, in the event the Eurodollar Rate for any Eurodollar Borrowing determined in accordance with clause (a) above would be less than 0.0%, then the Eurodollar Rate for such Eurodollar Borrowing shall instead be 0.0%.

"Event of Default" shall have the meaning provided in Section 11.

"Excess Cash Flow" shall mean, for any period, an amount equal to the excess of

(a) the sum, without duplication, of:

(i) Consolidated Net Income for such period;

(ii) an amount equal to the amount of all Non-Cash Charges to the extent deducted in arriving at such Consolidated Net Income;

(iii) decreases in Net Working Capital (except as a result of the reclassification of items from short-term to long-term or vice versa), decreases in long-term accounts receivable and increases in the long-term portion of deferred revenue for such period (other than any such decreases or increases, as applicable, arising from acquisitions or Dispositions outside the ordinary course of property by the Borrower or any of its Restricted Subsidiaries completed during such period or the application of purchase accounting);

(iv) an amount equal to the aggregate net non-cash loss on the Disposition of assets, business units or property by the Borrower and the Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income;



(v) cash payments received in respect of Hedging Agreements during such period to the extent not included in arriving at such Consolidated Net Income; and

(vi) income tax expense to the extent deducted in arriving at such Consolidated Net Income; minus

(b) the sum, without duplication, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income and cash charges included in clauses (a) through (h) of the definition of the term “Consolidated Net Income”;

(ii) without duplication of amounts deducted pursuant to clause (xi) below in prior fiscal years, the amount of Capital Expenditures made in cash or accrued during such period, except to the extent that such Capital Expenditures or acquisitions of Intellectual Property or acquisitions were financed by the issuance or incurrence of long-term Indebtedness by, or the issuance of Capital Stock by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(iii) the aggregate amount of all principal payments of Indebtedness of the Borrower and the Restricted Subsidiaries (including (A) the principal component of payments in respect of Capitalized Lease Obligations, (B) all principal payments of Permitted Additional Debt and Credit Agreement Refinancing Indebtedness and (C) the amount of any mandatory prepayment of Term Loans actually made pursuant to Section 5.2(a)(i) and any mandatory redemption or prepayment of Credit Agreement Refinancing Indebtedness or Permitted Additional Debt pursuant to the corresponding provisions of the governing documentation thereof, in any such case from the proceeds of any Disposition and that resulted in an increase to Consolidated Net Income and not in excess of the amount of such increase but excluding (1) all other prepayments and/or redemptions of Loans and (2) all prepayments of revolving credit loans and swingline loans (in each case, other than the Loans) permitted hereunder made during such period (other than in respect of any revolving credit facility to the extent there is an equivalent permanent reduction in commitment thereunder)), except to the extent financed by the issuance or incurrence of long-term Indebtedness by, or the issuance of Capital Stock by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(iv) an amount equal to the aggregate net non-cash gain on the Disposition of property by the Borrower and the Restricted Subsidiaries during such period (other than the Disposition of property in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income;

(v) increases in Net Working Capital (except as a result of the reclassification of items from short term to long term or vice versa), increases in long term accounts receivable and decreases in the long-term portion of deferred revenue for such period (other than any such increases or decreases, as applicable, arising from acquisitions or Dispositions outside the ordinary course of business by the Borrower and the Restricted Subsidiaries during such period or the application of purchase accounting);

(vi) cash payments by the Borrower and the Restricted Subsidiaries during such period in respect of long-term liabilities of the Borrower and the Restricted Subsidiaries other than Indebtedness, except to the extent that such payments were financed by the issuance or incurrence of long-term Indebtedness by, or the issuance of Capital Stock by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(vii) without duplication of amounts deducted pursuant to clause (xi) below in prior fiscal years, the amount of Investments made in cash (other than Investments made pursuant to Sections 10.5(b), (f), (g), (h), (q), and (p)) made during such period, except to the extent that such Investments were financed by the issuance or incurrence of long-term Indebtedness by, or the issuance of Capital Stock by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(viii) the amount of Dividends paid in cash during such period (other than pursuant to Section 10.6(h)), except to the extent that such Dividends were financed by the issuance or incurrence of long-term Indebtedness by, or the issuance of Capital Stock by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(ix) the aggregate amount of expenditures actually made by the Borrower and the Restricted Subsidiaries in cash during such period (including expenditures for the payment of financing fees) to the extent that such expenditures are not expensed during such period, except to the extent that such expenditures were financed by the issuance or incurrence of long-term Indebtedness by, or the issuance of Capital Stock by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(x) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower and the Restricted Subsidiaries during such period that are required to be made in connection with any prepayment of Indebtedness, except to the extent that such payments were financed by the issuance or incurrence of long-term Indebtedness by, or the issuance of Capital Stock by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business;

(xi) without duplication of amounts deducted from Excess Cash Flow in the then-applicable or other periods, the aggregate consideration required to be paid in cash by the Borrower or any of the Restricted Subsidiaries pursuant to binding contracts (the "Contract Consideration") entered into prior to or during such period relating to Permitted Acquisitions (or Investments similar to those made for Permitted Acquisitions), Capital Expenditures or acquisitions of Intellectual Property to be consummated or made during the period of four consecutive fiscal quarters of the Borrower following the end of such period; provided that to the extent that the aggregate amount of cash actually utilized to finance such Permitted Acquisitions

(or Investments similar to those made for Permitted Acquisitions), Capital Expenditures or acquisitions of Intellectual Property during such following period of four consecutive fiscal quarters (except to the extent financed by the issuance or incurrence of long-term Indebtedness by, or the issuance of Capital Stock by, or the making of capital contributions to, the Borrower or any of the Restricted Subsidiaries or using the proceeds of any Disposition outside the ordinary course of business) is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow, at the end of such period of four consecutive fiscal quarters;

(xii) income taxes, including penalties and interest, paid in cash in such period; and

(xiii) cash expenditures made in respect of Hedging Agreements during such period to the extent not deducted in arriving at such Consolidated Net Income;

provided, that, in no event shall Excess Cash Flow exceed an amount equal to the difference of (a) all cash and cash equivalents (including Segregated Cash) on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries, as of the last day of such period, less (b) all Indebtedness on the balance sheet of the Regulated Subsidiaries as of such date, other than (A) Indebtedness under Margin Lines of Credit and (B) other Indebtedness that has been approved as regulatory capital for computation of Net Capital (as defined in SEC Rule 15c3-1) less (c) all Required Cash of all such Persons as of such date.

“Exchange Act” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Exchange Rate” shall mean on any day with respect to any currency (other than Dollars), the rate at which such currency may be exchanged into any other currency (including Dollars), as set forth at approximately 11:00 a.m. (London time) on such day on the Reuters World Currency Page for such currency. In the event that such rate does not appear on any Reuters World Currency Page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed by the Administrative Agent and the Borrower, or, in the absence of such agreement, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 11:00 a.m., local time, on such date for the purchase of the relevant currency for delivery two Business Days later.

“Excluded Capital Stock” shall mean:

(a) any Capital Stock with respect to which, in the reasonable judgment of the Administrative Agent (confirmed in writing by notice to the Borrower and the Collateral Agent), the cost or other consequences (including any material adverse tax consequences) of pledging such Capital Stock shall be excessive in view of the benefits to be obtained by the Secured Parties therefrom,

(b) solely in the case of any pledge of Capital Stock of any Foreign Subsidiary or FSHCO to secure the Obligations, any Capital Stock that is Voting Stock of such Foreign Subsidiary or FSHCO in excess of 65% of the outstanding Capital Stock that is Voting Stock of such class,

(c) any Capital Stock to the extent the pledge thereof would be prohibited by any Applicable Law (including any legally effective requirement to obtain the consent of any Governmental Authority unless such consent has been obtained),

(d) the Capital Stock of any Unrestricted Subsidiary,

(e) the Capital Stock of any Excluded Subsidiary,

(f) the Capital Stock of PTC Holdings, Inc. and The Private Trust Company, N.A.,

(g) any “margin stock” and Capital Stock of any Person, other than any wholly-owned Restricted Subsidiary to the extent, and for so long as, the pledge of such Capital Stock would be prohibited by the terms of any Contractual Obligation, Organizational Document, joint venture agreement or shareholders’ agreement applicable to such Person,

(h) any Capital Stock of any Subsidiary to the extent that the pledge of such Capital Stock would result in material adverse tax consequences to Holdings, the Borrower or any Subsidiary as reasonably determined by the Borrower in consultation with the Administrative Agent and notified in writing to the Collateral Agent, and

(i) the Capital Stock of any Subsidiary of a Foreign Subsidiary or FSHCO.

“Excluded Property” shall have the meaning provided in the Security Agreement.

“Excluded Subsidiary” shall mean:

(a) any Subsidiary that is not a wholly owned Subsidiary on any date such Subsidiary would otherwise be required to become a Guarantor pursuant to the requirements of Section 9.11 (for so long as such Subsidiary remains a non-wholly owned Subsidiary),

(b) any Subsidiary, including any regulated entity that is subject to net worth or net capital or similar capital and surplus restrictions, that is prohibited by Applicable Law, accounting policies or principles or by Contractual Obligations existing on the Effective Date (including, without limitation, the Broker-Dealer Regulated Subsidiaries set forth in Schedule 1.1(b)) or, with respect to any Subsidiary acquired by the Borrower or a Restricted Subsidiary after the Effective Date (so long as such prohibition is not incurred in contemplation of such acquisition), Contractual Obligations existing on the date such Subsidiary is so acquired, or that is otherwise restricted by Applicable Law, in each case from guaranteeing the Obligations at the time such Subsidiary becomes a Restricted Subsidiary (and for so long as such restrictions or any replacement or renewal thereof is in effect),

(c) any Subsidiary that would require any consent, approval, license or authorization from any Governmental Authority to provide a Guarantee unless such consent, approval, license or authorization has been received, or is received after commercially reasonable efforts by such Subsidiary to obtain the same, which efforts may be requested by the Administrative Agent,

(d) any Domestic Subsidiary that is (i) a FSHCO or (ii) a direct or indirect Subsidiary of a CFC,

(e) PTC Holdings, Inc. or The Private Trust Company, N.A.,

(f) any Immaterial Subsidiary (provided that the Borrower shall not be permitted to exclude Immaterial Subsidiaries from guaranteeing the Obligations to the extent that (i) the aggregate amount of gross revenue for all Immaterial Subsidiaries (other than Unrestricted Subsidiaries) excluded by this clause (f) exceeds 10% of the consolidated gross revenues of the Borrower and its Domestic Subsidiaries that are Restricted Subsidiaries for the most recent Test Period ended on or prior to the date of determination or (ii) the aggregate amount of total assets for all Immaterial Subsidiaries (other than Unrestricted Subsidiaries) excluded by this clause (f) exceeds 10% of the aggregate amount of total assets of the Borrower and its Domestic Subsidiaries that are Restricted Subsidiaries as at the end of the most recent Test Period ended on or prior to the date of determination),

(g) any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent in consultation with the Borrower (confirmed in writing by notice to the Borrower and the Collateral Agent), the cost or other consequences (including any material adverse tax consequences) of providing a guarantee shall be excessive in view of the benefits to be obtained by the Secured Parties therefrom,

(h) any Foreign Subsidiary and any Unrestricted Subsidiary,

(i) any other Domestic Subsidiary acquired pursuant to a Permitted Acquisition and financed with secured Indebtedness incurred pursuant to Section 10.1(j) or 10.1(k) and permitted by the proviso to subclause (z) and (y) of each such Section, respectively, and each Restricted Subsidiary acquired in such Permitted Acquisition that guarantees such Indebtedness to the extent that, and for so long as, the documentation relating to such Indebtedness to which such Restricted Subsidiary is a party prohibits such Restricted Subsidiary from guaranteeing the Obligations (so long as such prohibition is not incurred in contemplation of such acquisition),

(j) any Subsidiary that is a captive insurance company; and

(k) any Subsidiary to the extent that the guarantee of the Obligations would result in material adverse tax consequences to Holdings, the Borrower or any Subsidiary as reasonably determined by the Borrower in consultation with the Administrative Agent and notified in writing to the Collateral Agent.

“Excluded Swap Obligation” shall mean, with respect to any Credit Party, any obligation (a “Swap Obligation”) to pay or perform under any agreement, contract, or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act, if, and to the extent that, all or a portion of the guarantee of such Credit Party of, or the grant by such Credit Party of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation, or

order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Credit Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act (determined after giving effect to Section 9.18 hereof and any other "keepwell, support or other agreement" for the benefit of such Credit Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act) at the time the Guarantee of such Credit Party, or a grant by such Credit Party of a security interest, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes excluded in accordance with the first sentence of this definition.

"Exclusive IP Licenses" shall mean any exclusive intellectual property license, sublicense or cross-license granted by the Borrower or any of its Restricted Subsidiaries to another Person, which license, sublicense or cross-license was not made in the ordinary course of business and which materially limits the ability of the Borrower or its Restricted Subsidiaries to continue to use such intellectual property in its business.

"Existing Class" shall mean Existing Term Loan Classes and each Class of Existing Revolving Credit Commitments.

"Existing Revolving Credit Class" shall have the meaning provided in Section 2.15(a)(ii).

"Existing Revolving Credit Commitments" shall have the meaning provided in Section 2.15(a)(ii).

"Existing Revolving Credit Loans" shall have the meaning provided in Section 2.15(a)(ii).

"Existing Term Loan Class" shall have the meaning provided in Section 2.15(a).

"Expected Cure Amount" shall have the meaning provided in Section 11.12(b).

"Extended Loans/Commitments" shall mean Extended Term Loans, Extended Revolving Credit Loans and/or Extended Revolving Credit Commitments.

"Extended Repayment Date" shall have the meaning provided in Section 2.5(c).

"Extended Revolving Credit Commitments" shall have the meaning provided in Section 2.15(a)(ii).

"Extended Revolving Credit Facility" shall mean each Class of Extended Revolving Credit Commitments established pursuant to Section 2.15(a)(ii).

"Extended Revolving Credit Loans" shall have the meaning provided in Section 2.15(a)(ii).

"Extended Term Loan Class" shall have the meaning provided in Section 2.15(a).

“Extended Term Loan Facility” shall mean each Class of Extended Term Loans made pursuant to Section 2.15.

“Extended Term Loan Repayment Amount” shall have the meaning provided in Section 2.5(c).

“Extended Term Loans” shall have the meaning provided in Section 2.15(a).

“Extending Lender” shall have the meaning provided in Section 2.15(b).

“Extension Agreement” shall have the meaning provided in Section 2.15(c).

“Extension Date” shall have the meaning provided in Section 2.15(d).

“Extension Election” shall have the meaning provided in Section 2.15(b).

“Extension Request” shall mean Term Loan Extension Requests and Revolving Credit Extension Requests.

“Extension Series” shall mean all Extended Term Loans or Extended Revolving Credit Commitments (as applicable) that are established pursuant to the same Extension Agreement (or any subsequent Extension Agreement to the extent such Extension Agreement expressly provides that the Extended Term Loans or Extended Revolving Credit Commitments, as applicable, provided for therein are intended to be a part of any previously established Extension Series) and that provide for the same interest margins, extension fees, if any, and amortization schedule.

“Fair Market Value” shall mean, with respect to any asset or group of assets on any date of determination, the value of the consideration obtainable in a sale of such asset at such date of determination assuming a sale by a willing seller to a willing purchaser dealing at arm’s length and arranged in an orderly manner over a reasonable period of time having regard to the nature and characteristics of such asset, as reasonably determined by the Borrower.

“Fair Value” shall mean the amount at which the assets (both tangible and intangible), in their entirety, of a Person and its Subsidiaries taken as a whole would change hands between a willing buyer and a willing seller, within a commercially reasonable period of time, each having reasonable knowledge of the relevant facts, with neither being under any compulsion to act.

“FATCA” shall mean Sections 1471 through 1474 of the Code, as of the Effective Date (and any amended or successor version that is substantively comparable and not materially more onerous to comply with), and any current or future regulations or official interpretations thereof.

“FCPA” shall mean Foreign Corrupt Practices Act of 1977, as amended.

“Federal Funds Effective Rate” shall mean, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the

Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

“Fees” shall mean all amounts payable pursuant to, or referred to in, Section 4.1.

“Financial Performance Covenants” shall mean the covenants of the Borrower set forth in Sections 10.9 and 10.10.

“First Lien Obligations” shall mean the Obligations, Permitted First Priority Refinancing Debt and the Permitted Additional Debt Obligations (other than any Permitted Additional Debt Obligations that are unsecured or are secured by a Lien ranking junior or senior to the Lien securing the Obligations (but without regard to the control of remedies)), collectively.

“Fixed Baskets” shall have the meaning provided in Section 1.2(m).

“Flood Insurance Laws” shall mean, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto and (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto.

“Foreign Asset Sale” shall have the meaning provided in Section 5.2(h).

“Foreign Plan” shall mean any pension plan maintained or contributed to by the Borrower or any Restricted Subsidiary with respect to employees employed outside the United States.

“Foreign Recovery Event” shall have the meaning provided in Section 5.2(h).

“Foreign Subsidiary” shall mean each Subsidiary of the Borrower that is not a Domestic Subsidiary.

“Fort Mill Regional Campus” shall mean the office space in Fort Mill, South Carolina.

“Fort Mill Real Property Liabilities” means all obligations and liabilities incurred by the Borrower or any of its Restricted Subsidiaries in connection with, or in respect of (a) the construction of the office space on the Fort Mill Regional Campus and (b) any lease of such office space by the Borrower or any of its Restricted Subsidiaries.

“Fronting Fee” shall have the meaning provided in Section 4.1(b).



“FSHCO” shall mean any direct or indirect Domestic Subsidiary that has no material assets other than Capital Stock of one or more direct or indirect Foreign Subsidiaries that are CFCs.

“Fund” shall mean any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“GAAP” shall mean generally accepted accounting principles in the United States of America as in effect from time to time.

“Governmental Authority” shall mean the government of the United States, any foreign country or any multinational authority, or any state, province, territory or other political subdivision thereof, and any entity, body or authority exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, including the PBGC and other quasi-governmental entities established to perform such functions.

“Guarantee” shall mean the Guarantee, dated as of March 29, 2012, made by each Guarantor in favor of the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit A, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Guarantee Obligations” shall mean, as to any Person, any obligation of such Person guaranteeing or intended to guarantee any Indebtedness of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including any obligation of such Person, whether or not contingent, (a) to purchase any such Indebtedness or any property constituting direct or indirect security therefor, (b) to advance or supply funds (i) for the purchase or payment of any such Indebtedness or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (c) to purchase property, securities or services primarily for the purpose of assuring the owner of any such Indebtedness of the ability of the primary obligor to make payment of such Indebtedness or (d) otherwise to assure or hold harmless the owner of such Indebtedness against loss in respect thereof; provided that the term “Guarantee Obligations” shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Effective Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than with respect to Indebtedness). The amount of any Guarantee Obligation shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such Guarantee Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof (assuming such Person is required to perform thereunder) as determined by such Person in good faith.

“Guarantors” shall mean (a) each of Holdings and each Domestic Subsidiary of Holdings (other than Borrower or any Excluded Subsidiary) on the Effective Date and (b) each Subsidiary that becomes a party to the Guarantee after the Effective Date pursuant to Section 9.11.

“Hazardous Materials” shall mean (a) any petroleum or petroleum products, radioactive materials, friable asbestos, urea formaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing regulated levels of polychlorinated biphenyls, and radon gas; (b) any chemicals, materials or substances defined as or included in the definition of “hazardous substances”, “hazardous waste”, “hazardous materials”, “extremely hazardous waste”, “restricted hazardous waste”, “toxic substances”, “toxic pollutants”, “contaminants”, or “pollutants”, or words of similar import, under any applicable Environmental Law; and (c) any other chemical, material or substance, which is prohibited, limited or regulated by any Environmental Law.

“Hedge Bank” shall mean any Person that is a Lender, an Agent or an Affiliate of a Lender or an Agent and that is a counterparty to a Hedging Agreement with a Credit Party or one of its Restricted Subsidiaries, in its capacity as such, at the time it enters into such Hedging Agreement or at any time after it has entered into such Hedging Agreement.

“Hedging Agreement” shall mean (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

“Hedging Obligations” shall mean, with respect to any Person, the obligations of such Person under Hedging Agreements.

“Historical Financial Statements” shall mean, as of the Effective Date, (a) the audited consolidated balance sheets and related statements of income, shareholders’ equity and cash flows of Holdings and its Subsidiaries for the fiscal years ended December 31, 2014, December 31, 2015 and December 31, 2016.

“Holdings” shall mean (i) Holdings (as defined in the preamble to this Agreement) or (ii) any other Person or Persons (the “New Holdings”) that is a Subsidiary of (or are Subsidiaries of) Holdings or of any Parent Entity of Holdings (or the previous New Holdings, as the case may be) (the “Previous Holdings”); provided that (a) such New Holdings directly owns 100% of the Capital Stock of the Borrower, (b) the New Holdings shall expressly assume all the obligations of the Previous Holdings under this Agreement and the other Credit Documents pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent, (c) the New Holdings shall have delivered to the Administrative Agent a certificate of an Authorized Officer stating that such substitution and any supplements to the

Credit Documents preserve the enforceability of the Guarantee and the perfection and priority of the Liens under the Security Documents, (d) if reasonably requested by the Administrative Agent, an opinion of counsel shall be delivered by the Borrower to the Administrative Agent to the effect that such substitution does not violate this Agreement or any other Credit Document, (e) all Capital Stock of the Borrower is contributed or otherwise transferred to such New Holdings and pledged to secure the Obligations and (f) no Default or Event of Default has occurred and is continuing at the time of such substitution and such substitution does not result in any Default or Event of Default or material tax liability; provided, further, that if each of the foregoing is satisfied, the Previous Holdings shall be automatically released of all its obligations under the Credit Documents and any reference to “Holdings” in the Credit Documents shall be meant to refer to the “New Holdings”.

“HUD” shall mean the United States Department of Housing and Urban Development.

“HUD-Regulated Subsidiary” shall mean the Subsidiary of the Borrower that is a HUD-approved non-supervised mortgagee.

“HUD-Regulated Subsidiary Required Cash” shall mean, as of any date of determination, the greater of (a) \$100,000 and (b) the difference of (i) all cash and cash equivalents on the balance sheet of the HUD-Regulated Subsidiary as of such date and (ii) the Adjusted Net Worth (as referenced in 12 CFR Section 202.5(n)) of the HUD-Regulated Subsidiary as of such date above \$500,000.

“Identified Contingent Liabilities” shall mean the maximum estimated amount of liabilities reasonably likely to result from pending litigation, asserted claims and assessments, guaranties, uninsured risks and other contingent liabilities of a Person and its Subsidiaries taken as a whole after giving effect to the Transactions (including the execution and delivery of this Agreement, the making of the Loans and the use of proceeds of such Loans on the Effective Date) (including all fees and expenses related thereto but exclusive of such contingent liabilities to the extent reflected in Stated Liabilities), as identified and explained in terms of their nature and estimated magnitude by an Authorized Officer of such Person.

“Immaterial Subsidiary” shall mean, at any date of determination, any Restricted Subsidiary of the Borrower (a) whose total assets (when combined with the assets of such Restricted Subsidiary’s Subsidiaries, after eliminating intercompany obligations) at the last day of the most recent Test Period ended on or prior to such determination date were less than 5% of the aggregate of total assets of the Borrower and its Domestic Subsidiaries that are Restricted Subsidiaries at such date and (b) whose gross revenues (when combined with the revenues of such Restricted Subsidiary’s Subsidiaries, after eliminating intercompany obligations) for such Test Period were less than 5% of the consolidated gross revenues of the Borrower and its Domestic Subsidiaries that are Restricted Subsidiaries for such period, in each case determined in accordance with GAAP.

“Immediate Family Members” means with respect to any individual, such individual’s child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, mother-in-law, father-in-

law, son-in-law and daughter-in-law (including adoptive relationships) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

“Impacted Interest Period” shall have the meaning provided in the definition of “Eurodollar Rate”.

“Incremental Agreement” shall have the meaning set forth in Section 2.14(e).

“Incremental Commitments” shall have the meaning provided in Section 2.14(a).

“Incremental Facilities” shall have the meaning provided in Section 2.14(a).

“Incremental Facility Closing Date” shall have the meaning provided in Section 2.14(e).

“Incremental Limit” shall have the meaning provided in Section 2.14(b).

“Incremental Revolving Credit Commitment” shall mean the Commitment of any Lender in respect of an Incremental Revolving Credit Commitment Increase or Additional/Replacement Revolving Credit Commitments, in each case, pursuant to Section 2.14(a).

“Incremental Revolving Credit Commitment Increase” shall have the meaning provided in Section 2.14(a).

“Incremental Revolving Credit Commitment Increase Lender” shall have the meaning provided in Section 2.14(f).

“Incremental Term Loan Commitment” shall mean the Commitment of any Lender to make Incremental Term Loans of a particular Class pursuant to Section 2.14(a).

“Incremental Term Loan Facility” shall mean each Class of Incremental Term Loans made pursuant to Section 2.14.

“Incremental Term Loan Maturity Date” shall mean, with respect to any Class of Incremental Term Loans made pursuant to Section 2.14, the final maturity date thereof.

“Incremental Term Loan Repayment Amount” shall have the meaning provided in Section 2.5(c).

“Incremental Term Loan Repayment Date” shall have the meaning provided in Section 2.5(c).

“Incremental Term Loans” shall have the meaning provided in Section 2.14(a).

“Incurrence-Based Baskets” shall have the meaning provided in Section 1.2(m).

“**Indebtedness**” shall mean, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all indebtedness of such Person for borrowed money and all indebtedness of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) the maximum amount (after giving effect to any prior drawings or reductions which have been reimbursed) of all letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;
- (c) net Hedging Obligations of such Person;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) current trade liabilities (but not any refinancings, extensions, renewals, or replacements thereof) incurred in the ordinary course of business and maturing within 365 days after the incurrence thereof except if such trade liabilities bear interest, (ii) any earn-out obligation until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and (iii) obligations resulting from take-or-pay contracts entered into in the ordinary course of business);
- (e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (f) all Capitalized Lease Obligations;
- (g) all obligations of such Person in respect of Disqualified Capital Stock; and
- (h) all Guarantee Obligations of such Person in respect of any of the foregoing;

provided that Indebtedness shall not include (i) prepaid or deferred revenue arising in the ordinary course of business, (ii) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the purchase price of an asset to satisfy warrants or other unperformed obligations of the seller of such asset and (iii) the Fort Mill Real Property Liabilities.

For all purposes hereof, the Indebtedness of any Person shall (A) include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person’s liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included in the calculation of Consolidated Total Debt of such Person and (B) in the case of Holdings, the Borrower and their Subsidiaries, exclude all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any

roll-over or extensions of terms) and made in the ordinary course of business consistent with past practice. The amount of any net Hedging Obligations on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (e) above shall be deemed to be equal to the lesser of (i) the aggregate unpaid amount of such Indebtedness and (ii) the Fair Market Value of the property encumbered thereby as determined by such Person in good faith.

“Indemnified Parties” shall have the meaning provided in Section 13.5(a).

“Initial Financial Statement Delivery Date” shall mean the date on which Section 9.1 Financials are delivered to the Administrative Agent under Section 9.1(a) or (b) for the first full fiscal quarter of the Borrower commencing after the Effective Date.

“Initial Term Lender” shall mean each Lender with an Initial Term Loan Commitment or holding an Initial Term Loan.

“Initial Term Loan” shall have the meaning provided in Section 2.1(a).

“Initial Term Loan Commitment” shall mean, (a) in the case of each Lender that is a Lender on the Effective Date, the amount, if any, set forth opposite such Lender’s name on Schedule 1.1(a) as such Lender’s “Initial Term Loan Commitment” and (b) in the case of any Lender that becomes a Lender after the Effective Date, the amount specified as such Lender’s “Initial Term Loan Commitment” in the Assignment and Acceptance pursuant to which such Lender assumed a portion of the Total Term Loan Commitment, in each case as the same may be changed from time to time pursuant to the terms hereof. The aggregate amount of the Initial Term Loan Commitments as of the Effective Date is \$1,700,000,000.

“Initial Term Loan Facility” shall have the meaning provided in the recitals to this Agreement.

“Initial Term Loan Maturity Date” shall mean March 10, 2024; provided that if such date is not a Business Day, the “Initial Term Loan Maturity Date” will be the Business Day immediately following such date.

“Initial Term Loan Repayment Amount” shall have the meaning provided in Section 2.5(b).

“Initial Term Loan Repayment Date” shall have the meaning provided in Section 2.5(b).

“Intellectual Property” shall have the meaning provided for such term or a similar term in the Security Agreement.

“Intercompany Note” shall mean the Amended and Restated Intercompany Subordinated Note, dated as of the Effective Date, substantially in the form of Exhibit N, executed by Holdings, the Borrower and each other Subsidiary of the Borrower party thereto.

“Interest Period” shall mean, with respect to any Eurodollar Loans, the interest period applicable thereto, as determined pursuant to Section 2.9.

“Interpolated Rate” means, at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the relevant LIBOR) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the applicable LIBOR (for the longest period for which the applicable LIBOR is available for the applicable currency) that is shorter than the Impacted Interest Period and (b) the applicable LIBOR for the shortest period (for which such LIBOR is available for the applicable currency) that exceeds the Impacted Interest Period, in each case, as at such time for such Interest Period. When determining the rate for a period which is less than the shortest period for which the relevant LIBOR is available, the applicable LIBOR for purposes of clause (a) above shall be deemed to be the overnight screen rate where “overnight screen rate” means, in relation to any currency, the overnight rate for such currency determined by the Administrative Agent from such service as the Administrative Agent may select.

“Introducing Broker-Dealer Minimum Capital” shall mean for those Subsidiaries of the Borrower that are broker-dealers exempt from the provisions of SEC Rule 15c3-3, as of any date of determination, the greater of (a) 120% of such Subsidiaries’ consolidated minimum dollar Net Capital required (as defined in SEC Rule 15c3-1), and (b) the consolidated Aggregate Indebtedness (as defined in SEC Rule 15c3-1) of such Subsidiaries, divided by ten.

“Investment” shall have the meaning provided in Section 10.5.

“Investors” shall mean the Sponsors, the Management Investors and certain other investors arranged by and/or designated by the Sponsors and identified to the Administrative Agent prior to the Effective Date.

“ISP” shall mean, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” shall mean with respect to any Letter of Credit, any Letter of Credit Request, and any other document, agreement and instrument entered into by any Letter of Credit Issuer and the Borrower (or any Restricted Subsidiary) or in favor of any Letter of Credit Issuer and relating to such Letter of Credit.

“JPMorgan” shall mean JPMorgan Chase Bank, N.A.

“Joint Bookrunners” shall mean the Persons listed on the cover page of this Agreement as such in their capacities as Joint Bookrunners under this Agreement.

“Joint Lead Arrangers” shall mean the Persons listed on the cover page of this Agreement as such in their capacities as Joint Lead Arrangers under this Agreement.

“Junior Priority Lien Intercreditor Agreement” shall mean an intercreditor agreement substantially in the form of Exhibit I-2 among the Administrative Agent and/or the

Collateral Agent and one or more representatives for the holders of one or more classes of Indebtedness permitted by this Agreement and that is intended (and/or required) to be secured on a junior lien basis to the Liens securing the Obligations, with such modifications thereto as the Administrative Agent and Borrower may reasonably agree.

“Latest Maturity Date” shall mean, with respect to any Indebtedness or Capital Stock, the latest Maturity Date applicable to any Credit Facility that is outstanding hereunder as determined on the date such Indebtedness is issued or incurred or such Capital Stock is issued.

“LCT Election” shall have the meaning specified in Section 1.2(o).

“LCT Test Date” shall mean the date specified in the LCT Election; provided, that (a) with respect to any prepayment of Indebtedness, such date shall be the date of the irrevocable prepayment notice and (b) with respect to all other Limited Condition Transactions, such date shall be the date of the definitive agreements for such Limited Condition Transaction.

“Lender” shall mean (a) the Persons listed on Schedule 1.1(a), (b) any other Person that shall become a party hereto as a “lender” pursuant to Section 13.6 and (c) each Person that becomes a party hereto as a “lender” pursuant to the terms of Section 2.14, in each case other than a Person who ceases to be a “Lender.”

“Letter of Credit” shall have the meaning provided in Section 3.1(a).

“Letter of Credit Borrowing” shall mean an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Borrowing.

“Letter of Credit Commitment” shall mean (a) with respect to each Letter of Credit Issuer that is a Letter of Credit Issuer on the Effective Date, the amount set forth opposite such Letter of Credit Issuer’s name on Schedule 1.1(a) as such Letter of Credit Issuer’s “Letter of Credit Commitment”, and (b) in the case of any Letter of Credit Issuer that becomes a Letter of Credit Issuer after the Effective Date, the amount specified as such Letter of Credit Issuer’s “Letter of Credit Commitment” in the assignment and acceptance agreement pursuant to which such Letter of Credit Issuer assumed a portion of the Total Letter of Credit Commitment. The aggregate amount of all Letter of Credit Commitments as of the Effective Date is \$75,000,000.

“Letter of Credit Exposure” shall mean, with respect to any Lender, at any time, the sum of (a) the amount of any Unpaid Drawings in respect of which such Lender has made (or is required to have made) Revolving Credit Loans pursuant to Section 3.4 at such time and (b) such Lender’s Revolving Credit Commitment Percentage of the Letter of Credit Obligations at such time (excluding the portion thereof consisting of Unpaid Drawings in respect of which the Lenders have made (or are required to have made) Revolving Credit Loans pursuant to Section 3.4).

“Letter of Credit Fee” shall have the meaning provided in Section 4.1(c).



“Letter of Credit Issuer” shall mean (a) JPMorgan, (b) each Lender listed as a “Letter of Credit Issuer” on Schedule 1.1(a), with a Letter of Credit Commitment amount set forth opposite such Lender’s name on such Schedule 1.1(a), and (c) any one or more Persons who shall become a Letter of Credit Issuer pursuant to Section 3.6. Any Letter of Credit Issuer may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of the Letter of Credit Issuer, and in each such case the term “Letter of Credit Issuer” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate. In the event that there is more than one Letter of Credit Issuer at any time, references herein and in the other Credit Documents to the Letter of Credit Issuer shall be deemed to refer to the Letter of Credit Issuer in respect of the applicable Letter of Credit or to all Letter of Credit Issuers, as the context requires.

“Letter of Credit Maturity Date” shall mean the date that is five Business Days prior to the Revolving Credit Maturity Date.

“Letter of Credit Obligations” shall mean, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unpaid Drawings, including all Letter of Credit Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.8. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms, but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Letter of Credit Participant” shall have the meaning provided in Section 3.3(a).

“Letter of Credit Participation” shall have the meaning provided in Section 3.3(a).

“Letter of Credit Request” shall have the meaning provided in Section 3.2(b).

“LIBOR” shall have the meaning provided in the definition of “Eurodollar Rate”.

“Lien” shall mean any mortgage, pledge, security interest, hypothecation, assignment, lien (statutory or other) or similar encumbrance, and any easement, right-of-way, license, restriction (including zoning restrictions), defect, exception or irregularity in title or similar charge or encumbrance (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement or any lease in the nature thereof); provided that in no event shall an operating lease be deemed to be a Lien.

“Limited Condition Transaction” means any (a) Investment or acquisition (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Capital Stock or otherwise) whose consummation is not conditioned on the availability of, or on obtaining, third party financing, (b) redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Capital Stock or preferred stock requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment and (c) any Dividend requiring irrevocable notice in advance thereof.

“Loan” shall mean any Revolving Credit Loan, Additional/Replacement Revolving Credit Loan, Extended Revolving Credit Loan, Swingline Loan (including any swingline loan pursuant to an Extended Revolving Credit Facility or an Additional/Replacement Revolving Credit Facility) or Term Loan made by any Lender hereunder.

“London Banking Day” shall mean any day on which dealings in Dollar deposits are conducted by and among banks in the London interbank eurodollar market.

“Management Investors” shall mean the officers, directors and employees of Holdings, the Borrower and the Subsidiaries who become investors in Holdings or any of its Parent Entities or in the Borrower.

“Mandatory Borrowing” shall have the meaning provided in Section 2.1(d).

“Margin Lines of Credit” shall mean any lines of credit established and used by the Borrower and its Subsidiaries consistent with ordinary course practice and to fund or support Margin Loans of customers of the Borrower and its Subsidiaries and any replacement lines established on substantially similar terms and conditions.

“Margin Loans” as defined in Regulation T.

“Master Agreement” shall have the meaning provided in the definition of the term “Hedging Agreement.”

“Material Adverse Effect” shall mean a circumstance or condition that materially and adversely affects (a) the business, assets, operations, properties or financial condition of the Borrower and the Restricted Subsidiaries (taken as a whole), (b) the ability of the Credit Parties (taken as a whole) to perform their payment obligations under the Credit Documents or (c) the rights and remedies of the Administrative Agent, the Collateral Agent or the Lenders under the Credit Documents.

“Maturity Date” shall mean the Initial Term Loan Maturity Date, any Incremental Term Loan Maturity Date, the Revolving Credit Maturity Date, any maturity date related to any Class of Extended Revolving Credit Commitments, any maturity date related to any Class of Additional/Replacement Revolving Credit Commitments, any maturity date related to any Class of Extended Term Loans, or the Swingline Maturity Date, as applicable.

“Minimum Borrowing Amount” shall mean (a) with respect to a Borrowing of Term Loans or Revolving Credit Loans, \$1,000,000 and (b) with respect to a Borrowing of Swingline Loans, \$100,000.

“Minority Investment” shall mean any Person (other than a Subsidiary) in which the Borrower or any Restricted Subsidiary owns Capital Stock.

“Moody’s” shall mean Moody’s Investors Service, Inc. or any successor by merger or consolidation to its business.

“Mortgage” shall mean a mortgage or a deed of trust, deed to secure debt, trust deed or other security document entered into by the owner of a Mortgaged Property in favor of the Collateral Agent for the benefit of the Secured Parties evidencing a Lien on such Mortgaged Property, substantially in the form of Exhibit O (with such changes thereto as may be necessary to account for local law matters) or otherwise in such form as reasonably agreed between the Borrower and the Collateral Agent.

“Mortgaged Property” shall mean (a) Real Property identified on Schedule 1.1(c) and (b) Real Property owned in fee with respect to which a Mortgage is required to be granted pursuant to Section 9.14(b).

“Multiemployer Plan” shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which the Borrower, a Restricted Subsidiary or an ERISA Affiliate had an obligation to contribute over the five preceding calendar years.

“Necessary Cure Amount” shall have the meaning provided in Section 11.12(b).

“Net Cash Proceeds” shall mean, with respect to any Prepayment Event, any issuance of Capital Stock, any capital contribution or any Disposition of any Investment, (a) the gross cash proceeds (including payments from time to time in respect of installment obligations, if applicable, but only as and when received and, with respect to any Recovery Event, any insurance proceeds or condemnation awards in respect of such Recovery Event) received by or on behalf of the Borrower or any of the Restricted Subsidiaries in respect of such Prepayment Event, issuance of Capital Stock or Disposition of any Investment, less (b) the sum of:

(i) in the case of any Prepayment Event or such Disposition, the amount, if any, of all taxes paid or estimated to be payable by the Borrower or any of the Restricted Subsidiaries in connection with such Prepayment Event or such Disposition (including withholding taxes imposed on the repatriation of any such Net Cash Proceeds),

(ii) in the case of any Prepayment Event or such Disposition, the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any amounts deducted pursuant to clause (i) above) (x) associated with the assets that are the subject of such Prepayment Event or such Disposition and (y) retained by the Borrower or any of the Restricted Subsidiaries, including any pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction; provided that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Cash Proceeds of such Prepayment Event or such Disposition occurring on the date of such reduction,

(iii) in the case of any Prepayment Event or such Disposition, the amount of any principal amount, premium or penalty, if any, interest or other amounts on any Indebtedness secured by a Lien on the assets that are the subject of such Prepayment Event or such Disposition to the extent that the instrument creating or evidencing such Indebtedness requires that such Indebtedness be repaid upon consummation of such Prepayment Event or such Disposition and such Indebtedness is actually so repaid (it being understood that the foregoing clause (iii) shall not apply with respect to any secured Permitted Additional Debt or secured Credit Agreement Refinancing Indebtedness),

(iv) in the case of any Asset Sale Prepayment Event or Permitted Sale Leaseback, the amount of any proceeds of such Asset Sale Prepayment Event or such Permitted Sale Leaseback that the Borrower or the applicable Restricted Subsidiary has reinvested (or intends to reinvest), or has entered into an Acceptable Reinvestment Commitment to reinvest, within the Reinvestment Period, in the business of the Borrower or any of the Restricted Subsidiaries (subject to Section 9.13); provided that:

(A) the Borrower or the applicable Restricted Subsidiary shall comply with Sections 9.11, 9.12 and 9.14(b) with respect to such reinvestment, if applicable;

(B) any portion of such proceeds that has not been so reinvested or made subject to an Acceptable Reinvestment Commitment within the Reinvestment Period shall (x) be deemed to be Net Cash Proceeds of an Asset Sale Prepayment Event or a Permitted Sale Leaseback occurring on the later of (1) the last day of the Reinvestment Period and (2) 180 days after the date that the Borrower or such Restricted Subsidiary shall have entered into an Acceptable Reinvestment Commitment and (y) be applied to the repayment of Term Loans in accordance with Section 5.2(a)(i) and to the repayment or redemption of any secured Permitted Additional Debt or Credit Agreement Refinancing Indebtedness to the extent permitted under Section 5.2(a)(i); and

(C) subject to clause (B) above, any proceeds subject to an Acceptable Reinvestment Commitment that is (I) later canceled or terminated for any reason before such proceeds are applied in accordance therewith or (II) not consummated (*i.e.*, the reinvestment contemplated by such Acceptable Reinvestment Commitment is not made) shall be applied to the repayment of Term Loans in accordance with Section 5.2(a)(i) and to the repayment or redemption of any secured Permitted Additional Debt or Credit Agreement Refinancing Indebtedness to the extent permitted under Section 5.2(a)(i), unless the Borrower or the applicable Restricted Subsidiary enters into another Acceptable Reinvestment Commitment with respect to such proceeds prior to the end of the Reinvestment Period,

(v) in the case of any Recovery Prepayment Event, the amount of any proceeds of such Recovery Prepayment Event (x) that the Borrower or the applicable Restricted Subsidiary has reinvested (or intends to reinvest), or has entered into an Acceptable Reinvestment Commitment to reinvest, within the Reinvestment Period, in the business of the Borrower or any of the Restricted Subsidiaries (subject to Section 9.13), including for the repair, restoration or replacement of the asset or assets subject to such Recovery Prepayment Event, or (y) for which the Borrower or the applicable Restricted Subsidiary has provided a Restoration Certification prior to the end of the Reinvestment Period; provided that:

(A) the Borrower or the applicable Restricted Subsidiary shall comply with Sections 9.11, 9.12 and 9.14(b) with respect to such reinvestment, if applicable;

(B) any portion of such proceeds that has not been so reinvested or made subject to an Acceptable Reinvestment Commitment or Restoration Certification within the Reinvestment Period shall (x) be deemed to be Net Cash Proceeds of a Recovery Prepayment Event occurring on the later of (1) the last day of the Reinvestment Period and (2) 180 days after the date that the Borrower or such Restricted Subsidiary shall have entered into an Acceptable Reinvestment Commitment or shall have provided a Restoration Certification and (y) be applied to the repayment of Term Loans in accordance with Section 5.2(a)(i), and to the repayment or redemption of any secured Permitted Additional Debt or Credit Agreement Refinancing Indebtedness to the extent permitted under Section 5.2(a)(i); and

(C) subject to clause (B) above, any proceeds subject to an Acceptable Reinvestment Commitment or a Restoration Certification that is (I) later canceled or terminated for any reason before such proceeds are applied in accordance therewith or (II) not consummated (*i.e.*, the reinvestment, repair, restoration or replacement contemplated by such Acceptable Reinvestment Commitment or Restoration Certification, as the case may be, is not made) shall be applied to the repayment of Term Loans in accordance with Section 5.2(a)(i) and to the repayment or redemption of any secured Permitted Additional Debt or Credit Agreement Refinancing Indebtedness to the extent permitted under Section 5.2(a)(i), unless the Borrower or the applicable Restricted Subsidiary enters into another Acceptable Reinvestment Commitment or provides another Restoration Certification with respect to such proceeds prior to the end of the Reinvestment Period,

(vi) in the case of any Asset Sale Prepayment Event, Recovery Prepayment Event or Permitted Sale Leaseback by any non-wholly owned Restricted Subsidiary, the pro rata portion of the net cash proceeds thereof (calculated without regard to this clause (vi)) attributable to minority interests and not available for distribution to or for the account of the Borrower or a wholly owned Restricted Subsidiary as a result thereof, and

(vii) in the case of any Prepayment Event, such Disposition, issuance of Capital Stock or capital contribution, reasonable and customary fees, commissions, expenses (including attorney's fees, investment banking fees, survey costs, title insurance premiums and search and recording charges, transfer taxes, deed or mortgage recording taxes and other customary expenses and brokerage, consultant and other customary fees), issuance costs, discounts and other costs and expenses paid by the Borrower or any of the Restricted Subsidiaries, as applicable, in connection with such Prepayment Event (other than those payable to the Borrower or any Restricted Subsidiary of the Borrower), in each case only to the extent not already deducted in arriving at the amount referred to in clause (a) above.

"Net Working Capital" shall mean, at any date, the excess of (a) the cumulative sum of all amounts that would in conformity with GAAP constitute "assets" on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries at such date, excluding assets constituting (i) cash, cash equivalents and bank overdrafts, other than all Required Cash of all such Persons as at such date (which shall be included as part of Net Working Capital), (ii) taxes receivable and deferred income taxes of all such Persons, (iii) property, plant and equipment of all such Persons, (iv) goodwill and intangibles of all such Persons and (v) any interests of the Borrower or any of its Restricted Subsidiaries in the Fort Mill Regional Campus, over (b) the

cumulative sum of all amounts that would, in conformity with GAAP, constitute “liabilities” on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries on such date, excluding (i) all Indebtedness, other than Indebtedness under Margin Lines of Credit (which shall be included as part of Net Working Capital), (ii) taxes payable and deferred income taxes of all such Persons, (iii) stockholder’s equity of all such Persons, (iv) Dividends payable of all such Persons and (v) the Fort Mill Real Property Liabilities.

“New Holdings” shall have the meaning provided in the definition of the term “Holdings”.

“Non-Cash Charges” shall mean (a) any impairment charge or asset write-off or write-down related to intangible assets (including goodwill), long-lived assets, and investments in debt and equity securities pursuant to GAAP, (b) all losses from investments recorded using the equity method, (c) all Non-Cash Compensation Expenses, (d) the non-cash impact of purchase accounting, (e) the non-cash impact of accounting changes or restatements and (f) other non-cash charges (provided, in each case, that if any non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period).

“Non-Cash Compensation Expense” shall mean any non-cash expenses and costs that result from the issuance of stock-based awards, partnership interest-based awards and similar incentive-based compensation awards or arrangements.

“Non-Consenting Lender” shall have the meaning provided in Section 13.7(b).

“Non-Debt Fund Affiliate” shall mean any Affiliate of Holdings (other than Holdings, the Borrower or any Subsidiary of the Borrower) that is not a Debt Fund Affiliate.

“Non-Defaulting Lender” shall mean and include each Lender other than a Defaulting Lender.

“Non-Excluded Taxes” shall have the meaning provided in Section 5.4(a).

“Non-Extension Notice Date” shall have the meaning provided in Section 3.2(e).

“Non-U.S. Lender” shall have the meaning provided in Section 5.4(d).

“Note” shall have the meaning provided in Section 13.6(c).

“Notice of Borrowing” shall have the meaning provided in Section 2.3(a).

“Notice of Conversion or Continuation” shall have the meaning provided in Section 2.6(a).

“**Obligations**” shall mean the collective reference to (a) the due and punctual payment of (i) the principal of and premium, if any, and interest at the applicable rate provided in this Agreement (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (ii) each payment required to be made by the Borrower under this Agreement in respect of any Letter of Credit, when and as due, including payments in respect of reimbursement of disbursements, interest thereon (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) and obligations to provide cash collateral, and (iii) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Borrower or any other Credit Party to any of the Secured Parties under this Agreement and the other Credit Documents, (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Borrower under or pursuant to this Agreement and the other Credit Documents, (c) the due and punctual payment and performance of all the covenants, agreements, obligations and liabilities of each other Credit Party under or pursuant to this Agreement or the other Credit Documents, (d) the due and punctual payment and performance of all Hedging Obligations (other than Excluded Swap Obligations) under each Secured Hedging Agreement and (e) the due and punctual payment and performance of all Cash Management Obligations under each Secured Cash Management Agreement. Notwithstanding the foregoing, (i) unless otherwise agreed to by the Borrower and any Hedge Bank or Cash Management Bank, the obligations of Holdings, the Borrower or any Subsidiary under any Secured Hedging Agreement and under any Secured Cash Management Agreement shall be secured and guaranteed pursuant to the Security Documents and the Guarantee only to the extent that, and for so long as, the other Obligations are so secured and guaranteed and (ii) any release of Collateral or Guarantors effected in the manner permitted by this Agreement and the other Credit Documents shall not require the consent of the holders of Hedging Obligations under Secured Hedging Agreements or of the holders of Cash Management Obligations under Secured Cash Management Agreements.

“**OCC**” shall mean the Office of the Comptroller of the Currency.

“**OCC-Regulated Subsidiary**” shall mean any Subsidiary of the Borrower that is regulated by the OCC.

“**OCC-Regulated Subsidiary Required Cash**” shall mean, as of any date of determination, (a) all cash and cash equivalents on the balance sheet of any OCC-Regulated Subsidiary as of such date minus (b) all Indebtedness on the balance sheet of any OCC-Regulated Subsidiary as of such date minus (c) the difference of (i) the Risk-Based Capital (as referenced in 12 U.S.C. Section 282) of any OCC-Regulated Subsidiary as of such date and (ii) \$4,000,000 (or such other amount that is required by the OCC or otherwise agreed to by any OCC-Regulated Subsidiary and the OCC).

“**OFAC**” shall mean the Office of Foreign Assets Control of the United States Department of the Treasury.

“OID” shall have the meaning provided in Section 13.18.

“Organizational Documents” shall mean (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and, if applicable, any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Original Credit Agreement” shall have the meaning provided in the recitals to this Agreement.

“Original Lender” shall have the meaning provided in the recitals to this Agreement.

“Other Taxes” shall have the meaning provided in Section 5.4(b).

“Parent Entity” shall mean any Person that is a direct or indirect parent company (which may be organized as, among other things, a partnership) of Holdings and/or the Borrower, as applicable.

“Participant” shall have the meaning provided in Section 13.6(d)(i).

“Participant Register” shall have the meaning provided in Section 13.6(d)(ii).

“PATRIOT Act” shall have the meaning provided in Section 8.19.

“PBGC” shall mean the Pension Benefit Guaranty Corporation established pursuant to Section 4002 of ERISA, or any successor thereto.

“Pension Plan” shall mean any employee pension benefit plan (as defined in Section 3(2) of ERISA, other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA, Section 412 or Section 430 of the Code or Section 302 of ERISA sponsored, maintained or contributed to by the Borrower, a Restricted Subsidiary or an ERISA Affiliate or, solely with respect to representations and covenants that relate to liability under Section 4069 of ERISA, that was so maintained and in respect of which the Borrower, any Restricted Subsidiary or ERISA Affiliate could have liability under Section 4069 of ERISA in the event such plan has been or were to be terminated.

“Perfection Certificate” shall mean a certificate in the form of Exhibit P or any other form approved by the Administrative Agent in its reasonable discretion.



“Permitted Acquisition” shall mean any acquisition, by merger or otherwise, by the Borrower or any of the Restricted Subsidiaries of assets (including any assets constituting a business unit, line of business or division) or Capital Stock, so long as (i) such acquisition and all transactions related thereto shall be consummated in all material respects in accordance with all Applicable Laws; (ii) if such acquisition involves the acquisition of Capital Stock of a Person that upon such acquisition would become a Subsidiary, such acquisition shall result in the issuer of such Capital Stock becoming a Restricted Subsidiary and, to the extent required by Section 9.11, a Guarantor; (iii) to the extent required by Sections 9.11, 9.12 and/or 9.14(b), such acquisition shall result in the Collateral Agent, for the benefit of the Secured Parties, being granted a security interest in any Capital Stock or any assets so acquired; (iv) after giving effect to such acquisition, no Event of Default shall have occurred and be continuing; (v) after giving effect to such acquisition, the Borrower and its Restricted Subsidiaries shall be in compliance with Section 9.13; and (vi) the Borrower shall be in compliance, on a Pro Forma Basis after giving effect to such acquisition (including any Indebtedness assumed or permitted to exist or incurred pursuant to Sections 10.1(j) and 10.1(k), respectively, and any related Pro Forma Adjustment), with the covenants set forth in Sections 10.9 and 10.10, as such covenants are recomputed as of the last day of the most recently ended Test Period under such Section as if such acquisition had occurred on the first day of such Test Period.

“Permitted Acquisition Consideration” shall mean in connection with any Permitted Acquisition, the aggregate amount (as valued at the Fair Market Value of such Permitted Acquisition at the time such Permitted Acquisition is made) of, without duplication: (a) the purchase consideration paid or payable in cash for such Permitted Acquisition, whether payable at or prior to the consummation of such Permitted Acquisition or deferred for payment at any future time, whether or not any such future payment is subject to the occurrence of any contingency, and including any and all payments representing the purchase price and any assumptions of Indebtedness and/or Guarantee Obligations, “earn-outs” and other agreements to make any payment the amount of which is, or the terms of payment of which are, in any respect subject to or contingent upon the revenues, income, cash flow or profits (or the like) of any Person or business and (b) the aggregate amount of Indebtedness incurred or assumed in connection with such Permitted Acquisition; provided, in each case, that any such future payment that is subject to a contingency shall be considered Permitted Acquisition Consideration only to the extent of the reserve, if any, required under GAAP (as determined at the time of the consummation of such Permitted Acquisition) to be established in respect thereof by the Borrower or its Restricted Subsidiaries.

“Permitted Additional Debt” shall mean senior secured or senior unsecured, senior subordinated or subordinated debt (which debt, if secured, may either have the same lien priority as the Obligations or may be secured by a Lien ranking junior to the Lien securing the Obligations), in each case issued or incurred by the Borrower or a Guarantor; provided that (a) the terms of such Indebtedness do not provide for maturity or any scheduled mandatory repayment, mandatory redemption, mandatory offer to purchase or sinking fund obligation prior to the Latest Maturity Date, other than, subject (except in the case of any First Lien Obligations) to the prior repayment of or the prior offer to repay (and to the extent such offer is accepted, the prior repayment of) the Obligations hereunder (other than Hedging Obligations under any Secured Hedging Agreement, Cash Management Obligations under Secured Cash Management Agreements or contingent indemnification obligations), customary offers to purchase upon a change of control, asset sale or casualty or condemnation event and customary acceleration rights

upon an event of default, (b) the covenants, events of default, Subsidiary guarantees and other terms for such Indebtedness (provided that such Indebtedness shall have interest rates (including through fixed interest rates), interest rate margins, rate floors, fees, funding discounts, original issue discounts and redemption or prepayment terms and premiums determined by the Borrower to be market rates, margins, rate floors, fees, discounts and premiums at the time of issuance of such Indebtedness), taken as a whole, are determined by the Borrower to not be materially more restrictive on the Borrower and its Restricted Subsidiaries than the terms of this Agreement (as in effect on the Effective Date); provided that a certificate of an Authorized Officer of the Borrower delivered to the Administrative Agent at least five Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees), (c) if such Indebtedness is senior subordinated or subordinated Indebtedness, the terms of such Indebtedness provide for customary “high yield” subordination of such Indebtedness to the Obligations, (d) if such Indebtedness is secured, such Indebtedness shall not be secured by any property or assets other than the Collateral and shall be subject to an applicable Customary Intercreditor Agreement and (e) no Subsidiary of the Borrower (other than a Guarantor) is an obligor under such Indebtedness.

“Permitted Additional Debt Documents” shall mean any document or instrument (including any guarantee, security agreement or mortgage) issued or executed and delivered with respect to any Permitted Additional Debt by any Credit Party.

“Permitted Additional Debt Obligations” shall mean, if any secured Permitted Additional Debt has been incurred or issued and is outstanding, the collective reference to (a) the due and punctual payment of (i) the principal of and premium, if any, and interest at the applicable rate provided in the applicable Permitted Additional Debt Documents (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on any such Permitted Additional Debt, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment, redemption or otherwise and (ii) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Borrower or any other Credit Party to any of the Permitted Additional Debt Secured Parties under the applicable Permitted Additional Debt Documents and (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Borrower or any Credit Party under or pursuant to applicable Permitted Additional Debt Documents.

“Permitted Additional Debt Secured Parties” shall mean the holders from time to time of the secured Permitted Additional Debt Obligations (and any representative on their behalf).

“Permitted First Priority Refinancing Debt” shall mean any secured Indebtedness incurred by the Borrower and/or the Guarantors in the form of one or more series of senior secured notes or loans; provided that (i) such Indebtedness is secured by all or a portion of the Collateral on a basis that is not junior and not senior to the Liens securing the Obligations (but without regard to the control of remedies) and is not secured by any property or assets of Holdings, the Borrower or any Restricted Subsidiary other than the Collateral, (ii) such Indebtedness satisfies the applicable requirements set forth in the provisos to the definition of “Credit Agreement Refinancing Indebtedness,” (iii) such Indebtedness is not at any time guaranteed by any Subsidiaries of the Borrower other than Subsidiaries that are Guarantors and (iv) the Borrower, the holders of such Indebtedness (or their representative) and the Administrative Agent and/or the Collateral Agent shall be party to a Customary Intercreditor Agreement.

“Permitted Holders” shall mean the Investors; provided that for purposes of the definition of Change of Control, “Permitted Holders” shall mean the Sponsors and the Management Investors.

“Permitted Junior Priority Refinancing Debt” shall mean secured Indebtedness incurred by the Borrower in the form of one or more series of second lien (or other junior lien) secured notes or debentures or second lien (or other junior lien) secured loans; provided that (i) such Indebtedness is secured by all or a portion of the Collateral on a second priority (or other junior priority) basis to the Liens securing the Obligations and any other First Lien Obligations and is not secured by any property or assets of Holdings, the Borrower or any Restricted Subsidiary other than the Collateral, (ii) such Indebtedness satisfies the applicable requirements set forth in the provisos in the definition of “Credit Agreement Refinancing Indebtedness” (provided that such Indebtedness may be secured by a Lien on the Collateral that is junior to the Liens securing the Obligations and any other First Lien Obligations, notwithstanding any provision to the contrary contained in the definition of “Credit Agreement Refinancing Indebtedness”), (iii) the holders of such Indebtedness (or their representative) and the Administrative Agent and/or the Collateral Agent shall be party to a Customary Intercreditor Agreement, and (iv) such Indebtedness is not at any time guaranteed by any Subsidiaries of the Borrower other than Subsidiaries that are Guarantors.

“Permitted Liens” shall mean:

(a) Liens for taxes, assessments or other governmental charges or claims that are either (i) not yet due overdue by more than 30 days or (ii) being diligently contested in good faith by appropriate proceedings for which appropriate reserves have been established in accordance with GAAP,

(b) Liens in respect of property or assets of the Borrower or any of its Restricted Subsidiaries imposed by law, such as landlord’s, carriers’, warehousemen’s, repairmen’s, construction contractors’ and mechanics’ Liens and other similar Liens, in each case so long as such Liens arise in the ordinary course of business and do not individually or in the aggregate have a Material Adverse Effect,

(c) Liens arising from judgments or decrees for the payment of money in circumstances not constituting an Event of Default under Section 11.10,

(d) Liens incurred or pledges or deposits made in connection with workers' compensation, unemployment insurance and other types of social security or similar legislation and deposits securing liabilities to insurance carriers under insurance or self-insurance arrangements in respect of such obligations, or to secure the performance of tenders, statutory obligations, surety, stay, customs and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (including letters of credit issued in lieu of any such bonds or to support the issuance thereof and including those to secure health, safety and environmental obligations) incurred in the ordinary course of business,

(e) ground leases or subleases, licenses or sublicenses in respect of real property on which facilities owned or leased by the Borrower or any of its Restricted Subsidiaries are located,

(f) easements, rights-of-way, licenses, restrictions (including zoning restrictions), minor title defects, exceptions or irregularities in title, encroachments, protrusions and other similar charges or encumbrances, which in each case do not, individually or in the aggregate, materially detract from the value of the Real Property of the Borrower and its Restricted Subsidiaries, taken as a whole, or interfere in any material respect with the business of the Borrower and its Restricted Subsidiaries, taken as a whole, and that were not incurred in connection with and do not secure any Indebtedness, and to the extent reasonably agreed by the Administrative Agent, any exception on the title policies issued in connection with any Mortgaged Property,

(g) any interest or title of a lessor, sublessor, licensor or sublicensor or secured by a lessor's, sublessor's, licensor's or sublicensor's interest under any lease, sublease, license or sublicense permitted by this Agreement,

(h) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods,

(i) Liens on goods or inventory the purchase, shipment or storage price of which is financed by a documentary letter of credit or bankers' acceptance issued or created for the account of the Borrower or any of its Restricted Subsidiaries; provided that such Lien secures only the obligations of the Borrower or such Restricted Subsidiaries in respect of such letter of credit to the extent permitted under Section 10.1,

(j) licenses, sublicenses and cross-licenses of Intellectual Property in the ordinary course of business,

(k) Liens arising from precautionary UCC financing statement or similar filings made in respect of operating leases entered into by the Borrower or any of its Restricted Subsidiaries,

(l) any zoning or similar law or right reserved to, or vested in, any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary course of conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole,

(m) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business which do not (i) interfere in any material respect with the business of the Borrower and its Restricted Subsidiaries, taken as a whole or (ii) secure any Indebtedness,

(n) Liens created in the ordinary course of business in favor of banks and other financial institutions over credit balances of any bank accounts of the Borrower and the Restricted Subsidiaries held at such banks or financial institutions, as the case may be, to facilitate the operation of cash pooling and/or interest set-off arrangements in respect of such bank accounts in the ordinary course of business, and

(o) Liens in connection with the Fort Mill Real Property Liabilities; provided that such Liens do not at any time extend to or cover any assets other than the Fort Mill Regional Campus (except for accessions and additions to such assets, replacements and products thereof and customary security deposits).

“Permitted Refinancing Indebtedness” shall mean, with respect to any Indebtedness (the “Refinanced Indebtedness”), any Indebtedness issued in exchange for, or the net proceeds of which are used to modify, extend, refinance, renew, replace or refund (collectively to “Refinance” or a “Refinancing” or “Refinanced”), such Refinanced Indebtedness (or previous refinancing thereof constituting Permitted Refinancing Indebtedness); provided that (A) the principal amount (or accreted value, if applicable) of any such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Refinanced Indebtedness outstanding immediately prior to such Refinancing except by an amount equal to the unpaid accrued interest and premium thereon plus other amounts paid and fees and expenses incurred in connection with such Refinancing plus an amount equal to any existing commitment unutilized and letters of credit undrawn thereunder, (B) if the Indebtedness being Refinanced is Indebtedness permitted by Section 10.1(a), 10.1(h), 10.1(q) or 10.1(v), the direct and contingent obligors with respect to such Permitted Refinancing Indebtedness are not changed (except that any Credit Party may be added as an additional obligor), (C) other than with respect to a Refinancing in respect of Indebtedness permitted pursuant to Section 10.1(f) or Section 10.1(g), such Permitted Refinancing Indebtedness shall have a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Refinanced Indebtedness, and (D) if the Indebtedness being Refinanced is Indebtedness permitted by Section 10.1(a), 10.1(h) or 10.1(v), the terms and conditions of any such Permitted Refinancing Indebtedness, taken as a whole, are not materially less favorable to the Lender or the Borrower than the terms and conditions of the Refinanced Indebtedness being Refinanced (including, if applicable, as to collateral priority and subordination, but excluding as to interest rates, interest margins, rate floors, fees, funding discounts and redemption or prepayment premiums and terms); provided that a certificate of an Authorized Officer of the Borrower, as the case may be, delivered to the Administrative Agent at least five Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement in clause (D) shall be conclusive evidence that such terms and

conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees).

“Permitted Sale Leaseback” shall mean any Sale Leaseback consummated by the Borrower or any of the Restricted Subsidiaries after the Effective Date with respect to the Borrower’s property listed on Schedule 1.1(c).

“Permitted Unsecured Refinancing Debt” shall mean unsecured Indebtedness incurred by the Borrower in the form of one or more series of senior unsecured notes or loans; provided that (i) such Indebtedness satisfies the applicable requirements set forth in the provisos in the definition of “Credit Agreement Refinancing Indebtedness” and (ii) such Indebtedness is not at any time guaranteed by any Subsidiaries of the Borrower other than Subsidiaries that are Guarantors.

“Person” shall mean any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust or other enterprise or any Governmental Authority.

“Platform” shall have the meaning provided in Section 9.1(i).

“Pledge Agreement” shall mean the Pledge Agreement, dated as of March 29, 2012, among Holdings, the Borrower, the other pledgors party thereto and the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit C, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Post-Transaction Period” shall mean, with respect to any Specified Transaction, restructuring, operating improvement, cost savings initiative and other initiatives (including the restructuring, modification and renegotiation of contracts and other arrangements), the period through the eight full consecutive fiscal quarters immediately following the date of such Specified Transaction or other transaction, initiative or event.

“Prepayment Event” shall mean any Asset Sale Prepayment Event, Recovery Prepayment Event, Debt Incurrence Prepayment Event or Permitted Sale Leaseback.

“Present Fair Saleable Value” shall mean the amount that could be obtained by an independent willing seller from an independent willing buyer if the assets (both tangible and intangible) of the applicable Person and its subsidiaries taken as a whole are sold on a going-concern basis with reasonable promptness in an arm’s-length transaction under present conditions for the sale of comparable business enterprises insofar as such conditions can be reasonably evaluated.

“Previous Holdings” shall have the meaning provided in the definition of the term “Holdings.”

“Pro Forma Adjustment” shall mean, for any Test Period that includes all or any part of a fiscal quarter included in any Post-Transaction Period with respect to the Acquired EBITDA of the applicable Pro Forma Entity or the Consolidated EBITDA of the Borrower, the pro forma increase or decrease in such Acquired EBITDA or such Consolidated EBITDA, as the

case may be, projected by the Borrower in good faith as a result of (a) reasonably identifiable and factually supportable cost savings, operating expense reductions or other synergies realized or expected to be realized prior to or during such Post-Transaction Period or (b) any additional costs, expenses or charges, accruals or reserves (collectively, "Costs") incurred prior to or during such Post-Transaction Period in connection with the combination of the operations of a Pro Forma Entity with the operations of the Borrower and its Restricted Subsidiaries or otherwise in connection with, as a result of or related to such Specified Transaction; provided that, so long as such cost savings, operating expense reductions or other synergies are realized or expected to be realized prior to or during such Post-Transaction Period, or such Costs are incurred prior to or during such Post-Transaction Period, it may be assumed, for purposes of projecting such pro forma increase or decrease to such Acquired EBITDA or such Consolidated EBITDA, as the case may be, that such cost savings, operating expense reductions or other synergies will be realizable during the entirety of such Test Period and/or such Costs will be incurred during the entirety of such Test Period, as applicable; and provided, further, that any such pro forma increase or decrease to such Acquired EBITDA or such Consolidated EBITDA, as the case may be, shall be without duplication for cost savings, operating expense reductions or other synergies or Costs already included in such Acquired EBITDA or such Consolidated EBITDA, as the case may be, for such Test Period.

"Pro Forma Adjustment Certificate" shall mean any certificate of an Authorized Officer of the Borrower setting forth the amount of the Pro Forma Adjustment and, in reasonable detail, the calculations and basis therefor.

"Pro Forma Basis," "Pro Forma Compliance" and "Pro Forma Effect" shall mean, with respect to compliance with any test or covenant hereunder, that (A) to the extent applicable, the Pro Forma Adjustment shall have been made and (B) all Specified Transactions (excluding, for purposes of calculating Consolidated Total Assets, any decrease in cash and Cash Equivalents as a result of any such Specified Transactions constituting a Dividend or repayment of Indebtedness) and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a sale, transfer or other Disposition of all or substantially all Capital Stock in any Subsidiary of the Borrower or any division, product line, or facility used for operations of the Borrower or any of its Subsidiaries, shall be excluded, and (ii) in the case of a Permitted Acquisition or Investment described in the definition of the term "Specified Transaction," shall be included, (b) any retirement or repayment of Indebtedness and (c) any Indebtedness incurred or assumed by the Borrower or any of the Restricted Subsidiaries in connection therewith and if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness as at the relevant date of determination; provided that, without limiting the application of the Pro Forma Adjustment pursuant to (A) above (but without duplication thereof), the foregoing pro forma adjustments may be applied to any such test or covenant solely to the extent that such adjustments are consistent with the definition of Consolidated EBITDA and give effect to events (including operating expense reductions) that are (i) (x) directly attributable to such transaction, (y) expected to have a continuing impact on the Borrower and the Restricted Subsidiaries and (z) factually supportable or (ii) otherwise consistent with the definition of the term "Pro Forma Adjustment."

“Pro Forma Entity” shall mean any Acquired Entity or Business, any Sold Entity or Business, any Converted Restricted Subsidiary or any Converted Unrestricted Subsidiary.

“Public Lender” shall have the meaning provided in Section 9.1(i).

“Public Side Information” shall have the meaning provided in Section 9.1(i).

“Purchasing Borrower Party” shall mean Holdings, the Borrower or any Subsidiary of the Borrower that becomes Transferee pursuant to Section 13.6(g).

“Qualified Capital Stock” shall mean any Capital Stock that is not Disqualified Capital Stock.

“Qualified ECP Guarantor” shall mean, in respect of any Swap Obligation, each Credit Party that has total assets exceeding \$10,000,000 at the time the relevant Guarantee or grant of the relevant security interest becomes effective with respect to such Swap Obligation or such other person as constitutes an “eligible contract participant” under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an “eligible contract participant” at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

“Real Property” shall mean, collectively, all right, title and interest in and to any and all parcels of or interests in real property owned by any Person, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, all general intangibles and contract rights and other property and rights incidental to the ownership thereof.

“Recovery Event” shall mean (a) any damage to, destruction of or other casualty or loss involving any property or asset or (b) any seizure, condemnation, confiscation or taking under the power of eminent domain of, or any requisition of title or use of or relating to, or any similar event in respect of, any property or asset, in each case, of the Borrower or a Restricted Subsidiary.

“Recovery Prepayment Event” shall mean the receipt of cash proceeds with respect to any settlement or payment in connection with any Recovery Event in respect of any property or asset of the Borrower or any Restricted Subsidiary; provided that the term “Recovery Prepayment Event” shall not include any Asset Sale Prepayment Event or any Permitted Sale Leaseback.

“Reference Rate” shall mean, on any day, an interest rate per annum equal to the Eurodollar Rate (determined pursuant to clause (a) of the definition thereof) for a three-month Interest Period commencing on such date.

“Refinance” shall have the meaning provided in the definition of the term “Permitted Refinancing Indebtedness”.



“Refinanced Indebtedness” shall have the meaning provided in the definition of the term “Permitted Refinancing Indebtedness”.

“Refused Proceeds” shall have the meaning provided in Section 5.2(c)(ii).

“Register” shall have the meaning provided in Section 13.6(b)(v).

“Regulated Subsidiaries” shall mean the Broker-Dealer Regulated Subsidiary, the HUD-Regulated Subsidiary and any OCC-Regulated Subsidiary.

“Regulation T” shall mean Regulation T of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation U” shall mean Regulation U of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Regulation X” shall mean Regulation X of the Board as from time to time in effect and any successor to all or a portion thereof establishing margin requirements.

“Reinvestment Period” shall mean, with respect to any Asset Sale Prepayment Event, Permitted Sale Leaseback or Recovery Prepayment Event, the day which is twelve months after the receipt of cash proceeds by the Borrower or any Restricted Subsidiary from such Asset Sale Prepayment Event, Permitted Sale Leaseback or Recovery Prepayment Event.

“Related Parties” shall mean, with respect to any specified Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, and advisors of such Person and of such Person’s Affiliates.

“Release” shall mean any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment or within, from or into any building, structure, facility or fixture subject to human occupation.

“Remaining Dividends Amount” means, at any time of determination, (a) the sum of: (i) the greater of (A) \$590,000,000 and (B) 6.75% of Consolidated Total Assets (measured as of the date the applicable Investment is made, Dividend is paid or Subject Payment is made, based upon the Section 9.1 Financials most recently delivered on or prior to such date), (ii) the aggregate amount of all dividends, returns, interest, profits, distributions, income and similar amounts (in each case, to the extent made in cash) received by the Borrower or any Restricted Subsidiary from any Investment (which amounts shall not exceed the amount of such Investment (valued at the Fair Market Value of such Investment at the time such Investment was made)) to the extent such Investment was made by using the Remaining Dividends Amount during the period from and including the Effective Date through and including such time (other than the portion of any such dividends and other distributions that is used by the Borrower or any Restricted Subsidiary to pay taxes); (iii) aggregate amount of all cash repayments of principal received by the Borrower or any Restricted Subsidiary from any Investment (which amounts shall not exceed the amount of such Investment (valued at the Fair Market Value of such Investment at the time such Investment was made)) to the extent such Investment was made by

using the Remaining Dividends Amount during the period from and including the Effective Date through and including such time in respect of loans made by the Borrower or any Restricted Subsidiary and that constituted Investments; (iv) to the extent not applied to prepay the Term Loans in accordance with Section 5.2(a)(i) or to prepay or redeem any secured Permitted Additional Debt, the aggregate amount of all Net Cash Proceeds received by the Borrower or any Restricted Subsidiary in connection with the Disposition of its ownership interest in any Investment to any Person other than to the Borrower or a Restricted Subsidiary and to the extent such Investment was made by using the Remaining Dividends Amount during the period from and including the Effective Date through and including such time; and (v) the amount of any Investment, in each case following the Effective Date and at or through and including such time, of the Borrower or any of its Restricted Subsidiaries in any Unrestricted Subsidiary that has been re-designated subsequent to any such Investment as a Restricted Subsidiary pursuant to Section 9.16 or that has been merged, amalgamated or consolidated with or into the Borrower or any of its Restricted Subsidiaries pursuant to Section 10.3, in each case, such amount not to exceed the lesser of (x) the Fair Market Value of the Investments of the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary immediately prior to giving effect to such re-designation or merger or consolidation and (y) the amount originally invested from the Remaining Dividends Amount by the Borrower and its Restricted Subsidiaries in such Unrestricted Subsidiary, minus

(b) the sum of, without duplication and without taking into account the proposed portion of the amount calculated above to be used at such time:

(i) the aggregate amount of any Investments made by the Borrower or any Restricted Subsidiary using the amounts set forth in Sections 10.5(j)(v), 10.5(s)(v) and 10.5(x)(E) after the Effective Date and on or prior to such time of determination;

(ii) the aggregate amount of Dividends made by Holdings or the Borrower using the amounts set forth in clause (i) of Section 10.6(h) after the Effective Date and on or prior to such time of determination; and

(iii) the aggregate amount expended of prepayments, repurchases, redemptions and defeasances made by the Borrower or any Restricted Subsidiary using the amounts set forth in clause (iii)(D) of the proviso to Section 10.7(a) after the Effective Date and on or prior to such time of determination (such prepayments, repurchases, redemptions and defeasances being "Subject Payments").

"Removal Effective Date" shall have the meaning provided in Section 12.8.

"Repayment Amount" shall mean any Initial Term Loan Repayment Amount, an Extended Term Loan Repayment Amount with respect to any Extension Series and the amount of any installment of Incremental Term Loans scheduled to be repaid on any date.

"Reportable Event" shall mean an event described in Section 4043 of ERISA and the regulations thereunder, other than those events as to which the 30 day notice period referred to in Section 4043 of ERISA has been waived, with respect to a Pension Plan (other than a Pension Plan maintained by an ERISA Affiliate that is considered an ERISA Affiliate only pursuant to subsections (m) and (o) of Section 414 of the Code).

“Repricing Transaction” shall mean (a) the incurrence by the Borrower of any Indebtedness (including, without limitation, any new or additional term loans under this Agreement, whether incurred directly or by way of the conversion of the Initial Term Loans into a new Class of replacement term loans under this Agreement) that is broadly marketed or syndicated to banks and other institutional investors in financings similar to the facilities provided for in this Agreement (i) having an Effective Yield for the respective Type of such Indebtedness that is less than the Effective Yield for the Initial Term Loans of the respective equivalent Type, but excluding Indebtedness incurred in connection with a Change of Control or Transformative Acquisition, and (ii) the proceeds of which are used to prepay (or, in the case of a conversion, deemed to prepay or replace), in whole or in part, outstanding principal of Initial Term Loans, or (b) any effective reduction in the Effective Yield for the Initial Term Loans (by way of amendment, waiver or otherwise), except for a reduction in connection with a Change of Control or Transformative Acquisition, the purpose of which, in the case of clauses (a) and (b), is primarily to decrease the Effective Yield with respect to the Initial Term Loans. Any determination by the Administrative Agent with respect to whether a Repricing Transaction shall have occurred with respect to the Initial Term Loans shall be conclusive and binding on all Lenders holding Initial Term Loans.

“Required Additional/Replacement Revolving Credit Lenders” shall mean, with respect to each Class of Additional/Replacement Revolving Credit Commitments at any date, Non-Defaulting Lenders having or holding a majority of Adjusted Total Additional/Replacement Revolving Credit Commitment of such Class at such date (or, if the Total Additional/Replacement Revolving Credit Commitment of such Class has been terminated at such time, a majority of the outstanding principal amount of the Additional/Replacement Revolving Credit Loans of such Class and the related revolving credit exposure (excluding the revolving credit exposure of Defaulting Lenders) in the aggregate at such date).

“Required Cash” shall mean the sum of Broker-Dealer Required Cash, OCC-Regulated Subsidiary Required Cash and HUD-Regulated Subsidiary Required Cash; provided, that to the extent, after the Effective Date, the Borrower or any of its Subsidiaries shall acquire or create any new “regulated” Domestic Subsidiary that shall not be required to guaranty the Obligations pursuant to the Guarantee, then the definition of “Required Cash” shall also include the required cash of any such Person, which required cash shall be calculated in a substantially equivalent manner as Broker-Dealer Required Cash, OCC-Regulated Subsidiary Required Cash and HUD-Regulated Subsidiary Required Cash have been calculated and otherwise in a manner mutually agreed between the Borrower and the Administrative Agent.

“Required Credit Facility Lenders” shall mean, (a) with respect to any Credit Facility consisting of Term Loans, the “Required Term Class Lenders” with respect to such Credit Facility and (b) with respect to any Credit Facility that is not a Term Loan Facility, the “Required Revolving Class Lenders” with respect to such Credit Facility.

“Required Lenders” shall mean, at any date and subject to the limitations set forth in Section 13.6(h), Non-Defaulting Lenders having or holding greater than 50% of (a) the outstanding principal amount of the Term Loans in the aggregate at such date, (b) (i) the Adjusted Total

Revolving Credit Commitment at such date and the Adjusted Total Extended Revolving Credit Commitment of all Classes at such date or (ii) if the Total Revolving Credit Commitment (or any Total Extended Revolving Credit Commitment of any Class) has been terminated or, for the purposes of acceleration pursuant to Section 11, the outstanding principal amount of the Revolving Credit Loans and Letter of Credit Exposure (excluding the Revolving Credit Exposure of Defaulting Lenders) in the aggregate at such date and/or the outstanding principal amount of the Extended Revolving Credit Loans and letter of credit exposure under such Extended Revolving Credit Commitments (excluding any such Extended Revolving Credit Loans and letter of credit exposure of Defaulting Lenders) at such date and (c)(i) the Adjusted Total Additional/Replacement Revolving Credit Commitment of each Class of Additional/Replacement Revolving Credit Commitments at such date or (ii) if the Adjusted Total Additional/Replacement Revolving Credit Commitment of any Class of Additional/Replacement Revolving Credit Commitments has been terminated or for purposes of acceleration pursuant to Section 11, the outstanding principal amount of the Additional/Replacement Revolving Credit Loans of such Class and the related revolving credit exposure (excluding the revolving credit exposure of Defaulting Lenders) in the aggregate at such date.

“Required Reimbursement Date” shall have the meaning provided in Section 3.4(a).

“Required Revolving Class Lenders” shall mean, at any date, Non-Defaulting Lenders having or holding greater than 50% of the Adjusted Total Revolving Credit Commitment or the Adjusted Total Additional/Replacement Revolving Credit Commitment, as applicable, at such date (or, if the Total Revolving Credit Commitment or Total Additional/Replacement Revolving Credit Commitment has been terminated at such time, a majority of the outstanding principal amount of the Revolving Credit Loans and Revolving Credit Exposure (excluding the Revolving Credit Exposure of Defaulting Lenders) or of the Additional/Replacement Revolving Credit Loans and related revolving credit exposure (excluding the revolving credit exposure of Defaulting Lenders) at such time).

“Required Term Class Lenders” shall mean, at any date and with respect to any Credit Facility consisting of Term Loans, Non-Defaulting Lenders having or holding greater than 50% of the outstanding principal amount of the Term Loans of such Credit Facility in the aggregate at such date.

“Resignation Effective Date” shall have the meaning provided in Section 12.8.

“Restoration Certification” shall mean, with respect to any Recovery Prepayment Event, a certification made by an Authorized Officer of the Borrower or a Restricted Subsidiary, as applicable, to the Administrative Agent prior to the end of the Reinvestment Period certifying (a) that the Borrower or such Restricted Subsidiary intends to use the proceeds received in connection with such Recovery Prepayment Event to repair, restore or replace the property or assets in respect of which such Recovery Prepayment Event occurred, or otherwise invest in assets useful to the business, (b) the approximate costs of completion of such repair, restoration or replacement and (c) that such repair, restoration, reinvestment or replacement will be completed within the later of (x) twelve months after the date on which cash proceeds with respect to such Recovery Prepayment Event were received and (y) 180 days after delivery of such Restoration Certification.

“Restricted Foreign Subsidiary” shall mean each Restricted Subsidiary that is also a Foreign Subsidiary.

“Restricted Subsidiary” shall mean any Subsidiary of the Borrower other than an Unrestricted Subsidiary. Unless otherwise expressly provided herein, all references herein to a “Restricted Subsidiary” shall mean a Restricted Subsidiary of the Borrower.

“Retained Refused Proceeds” shall have the meaning provided in Section 5.2(c)(ii).

“Revolving Credit Commitment” shall mean, (a) with respect to each Lender that is a Lender on the Effective Date, the amount set forth opposite such Lender’s name on Schedule 1.1(a) as such Lender’s “Aggregate Revolving Commitment”, (b) in the case of any Lender that becomes a Lender after the Effective Date, the amount specified as such Lender’s “Revolving Credit Commitment” in the Assignment and Acceptance pursuant to which such Lender assumed a portion of the Total Revolving Credit Commitment and (c) in the case of any Lender that increases its Revolving Credit Commitment or becomes an Incremental Revolving Credit Commitment Increase Lender, in each case pursuant to Section 2.14, the amount specified in the applicable Incremental Agreement, in each case as the same may be changed from time to time pursuant to terms hereof. The aggregate amount of the Revolving Credit Commitments as of the Effective Date is \$500,000,000.

“Revolving Credit Commitment Percentage” shall mean at any time, for each Lender, the percentage obtained by dividing (a) such Lender’s Revolving Credit Commitment by (b) the aggregate amount of the Revolving Credit Commitments; provided that at any time when the Total Revolving Credit Commitment shall have been terminated, each Lender’s Revolving Credit Commitment Percentage shall be its Revolving Credit Commitment Percentage as in effect immediately prior to such termination.

“Revolving Credit Exposure” shall mean, with respect to any Lender at any time, the sum of (a) the aggregate principal amount of the Revolving Credit Loans of such Lender then outstanding and (b) such Lender’s Letter of Credit Exposure at such time and (c) such Lender’s Swingline Exposure at such time.

“Revolving Credit Extension Request” shall have the meaning provided in Section 2.15(a)(ii).

“Revolving Credit Facility” shall have the meaning provided in the recitals to this Agreement.

“Revolving Credit Lender” shall mean, at any time, any Lender that has a Revolving Credit Commitment at such time.

“Revolving Credit Loan” shall have the meaning provided in Section 2.1(a).

“Revolving Credit Maturity Date” shall mean March 10, 2022, provided, that if such date is not a Business Day, then the “Revolving Credit Maturity Date” will be the Business Day immediately following such date.

“Revolving Credit Termination Date” shall mean the date on which the Revolving Credit Commitments shall have terminated, no Revolving Credit Loans shall be outstanding and the Letter of Credit Obligations shall have been reduced to zero or Cash Collateralized.

“S&P” shall mean Standard & Poor’s Ratings Services or any successor by merger or consolidation to its business.

“Sale Leaseback” shall mean any transaction or series of related transactions pursuant to which the Borrower or any of the Restricted Subsidiaries (a) sells, transfers or otherwise disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of such transaction, thereafter rents or leases such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or disposed of; provided that any transaction described above that is consummated within 270 days of the date of acquisition of the applicable property by the Borrower or any of its Restricted Subsidiaries shall not constitute a “Sale Leaseback” for purposes of this Agreement.

“SDN List” shall have the meaning provided in Section 8.21.

“SEC” shall mean the Securities and Exchange Commission or any successor thereto.

“Section 9.1 Financials” shall mean the financial statements delivered, or required to be delivered, pursuant to Section 9.1(a) or (b) together with the accompanying officer’s certificate delivered, or required to be delivered, pursuant to Section 9.1(d).

“Secured Cash Management Agreement” shall mean any agreement relating to Cash Management Services that is entered into by and between Holdings, the Borrower or any Restricted Subsidiary and a Cash Management Bank.

“Secured Hedging Agreement” shall mean any Hedging Agreement that is entered into by and between any Credit Party or any Restricted Subsidiary and any Hedge Bank.

“Secured Parties” shall mean, collectively, (a) the Lenders, (b) the Letter of Credit Issuers, (c) the Swingline Lenders, (d) the Administrative Agent, (e) the Collateral Agent, (f) each Hedge Bank, (g) each Cash Management Bank, (h) the beneficiaries of each indemnification obligation undertaken by any Credit Party under the Credit Documents and (i) any successors, endorsees, transferees and assigns of each of the foregoing.

“Securities Act” shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Security Agreement” shall mean the Security Agreement, dated as of March 29, 2012, among Holdings, the Borrower, the other grantors party thereto and the Collateral Agent for the benefit of the Secured Parties, substantially in the form of Exhibit B, as may be amended, restated, supplemented or otherwise modified from time to time.

“Security Documents” shall mean, collectively, (a) the Security Agreement, (b) the Pledge Agreement, (c) the Mortgages, if any, and (d) each other security agreement or other instrument or document executed and delivered pursuant to Section 9.11, 9.12 or 9.14 or Customary Intercreditor Agreement executed and delivered pursuant to Section 10.2 or pursuant to any of the Security Documents, Permitted Additional Debt Documents or documentation governing Credit Agreement Refinancing Indebtedness to secure or perfect the security interest in any property as collateral for any or all of the First Lien Obligations.

“Segregated Cash” shall mean, as of any date of determination, all cash and “qualified” cash equivalents segregated on the balance sheet of the Broker-Dealer Regulated Subsidiary as of such date under SEC Rule 15c3-3.

“Senior Notes” shall mean the 5.750% unsecured senior notes due 2025 of the Borrower issued pursuant to the Senior Notes Indenture.

“Senior Notes Documents” means the Senior Notes Indenture and the other transaction documents referred to therein (including the related guarantee, the notes and the notes purchase agreement).

“Senior Notes Indenture” means the indenture among the Borrower, as issuer, the guarantors listed therein and the trustee referred to therein pursuant to which the Senior Notes are issued, as such indenture may be amended, supplemented or otherwise modified from time to time.

“Senior Priority Lien Intercreditor Agreement” means the Senior Priority Lien Intercreditor Agreement substantially in the form of Exhibit I-1 among the Administrative Agent and/or the Collateral Agent and one or more representatives for holders of one or more classes of Permitted Additional Debt and/or Permitted First Priority Refinancing Debt, with such modifications thereto as the Administrative Agent and the Borrower may reasonably agree.

“Sold Entity or Business” shall have the meaning provided in the definition of the term “Consolidated EBITDA”.

“Solvent” shall mean, with respect to any Person, at any date, that (i) each of the Fair Value and the Present Fair Saleable Value of the assets of such Person and its Subsidiaries taken as a whole exceed their Stated Liabilities and Identified Contingent Liabilities; (ii) for the period from the date in question through the Initial Term Loan Maturity Date, such Person and its Subsidiaries, taken as a whole after consummation of the Transactions (including the execution and delivery of this Agreement, the making of the Loans, the issuance of the Senior Notes and the use of proceeds of such Loans, in each case on the Effective Date), is a going concern and has sufficient capital to ensure that it will continue to be a going concern for such period; and (iii) for the period from the date in question through the Initial Term Loan Maturity Date, such Person and its Subsidiaries, taken as a whole will have sufficient assets and cash flow to pay their respective Stated Liabilities and Identified Contingent Liabilities as those liabilities mature or (in the case of contingent liabilities) otherwise become payable.

“Specified Credit Party” shall mean any Credit Party that is not an “eligible contract participant” under the Commodity Exchange Act (determined prior to giving effect to Section 9.18).

“Specified Dividend Amount” means \$23,000,000.

“Specified Existing Revolving Credit Commitment” shall mean any Existing Revolving Credit Commitments belonging to a Specified Existing Revolving Credit Commitment Class.

“Specified Existing Revolving Credit Commitment Class” shall have the meaning provided in Section 2.15(a)(ii).

“Specified Obligations” shall mean Obligations consisting of (a) the principal of and interest on Loans and (b) reimbursement obligations in respect of Letters of Credit.

“Specified Subsidiary” shall mean, at any date of determination, (a) in the case of Restricted Subsidiaries, (i) any Restricted Subsidiary whose total assets (when combined with the assets of such Restricted Subsidiary’s Subsidiaries after eliminating intercompany obligations) at the last day of the most recent Test Period ended on or prior to such date of determination were equal to or greater than 10% of the Consolidated Total Assets of the Borrower and the Restricted Subsidiaries at such date, (ii) any Restricted Subsidiary whose gross revenues (when combined with the gross revenues of such Restricted Subsidiary’s Subsidiaries after eliminating intercompany obligations) for such Test Period were equal to or greater than 10% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with GAAP or (iii) each other Restricted Subsidiary that, when such Restricted Subsidiary’s total assets or gross revenues (when combined with the total assets or gross revenues of such Restricted Subsidiary’s Subsidiaries after eliminating intercompany obligations) are aggregated with each other Restricted Subsidiary (when combined with the total assets or gross revenues of such Restricted Subsidiary’s Subsidiaries after eliminating intercompany obligations) that is the subject of an Event of Default described in Section 11.5 would constitute a “Specified Subsidiary” under clause (a)(i) or (a)(ii) above and (b) in the case of Unrestricted Subsidiaries, (i) any Unrestricted Subsidiary whose total assets (when combined with the assets of such Unrestricted Subsidiary’s Subsidiaries after eliminating intercompany obligations) at the last day of the most recent Test Period ended on or prior to such date of determination were equal to or greater than 15% of the Consolidated Total Assets of the Borrower and the Unrestricted Subsidiaries at such date, (ii) any Unrestricted Subsidiary whose gross revenues (when combined with the gross revenues of such Unrestricted Subsidiary’s Subsidiaries after eliminating intercompany obligations) for such Test Period were equal to or greater than 15% of the consolidated gross revenues of the Borrower and the Unrestricted Subsidiaries for such period, in each case determined in accordance with GAAP or (iii) each other Unrestricted Subsidiary that, when such Unrestricted Subsidiary’s total assets or gross revenues (when combined with the total assets or gross revenues of such Unrestricted Subsidiary’s Subsidiaries after eliminating intercompany obligations) are aggregated with each other Unrestricted Subsidiary (when combined with the total assets or gross revenues of such Unrestricted Subsidiary’s Subsidiaries after eliminating intercompany obligations) that is the subject of an Event of Default described in Section 11.5 would constitute a “Specified Subsidiary” under clause (b)(i) or (b)(ii) above.



“Specified Transaction” shall mean, with respect to any period, any Investment, sale, transfer or other Disposition of assets or property, incurrence or repayment of Indebtedness, Dividend, Subsidiary designation, Incremental Term Loan, provision of Incremental Revolving Credit Commitment Increases, provision of Additional/Replacement Revolving Credit Commitments, creation of Extended Term Loans or Extended Revolving Credit Commitments or other event that by the terms of the Credit Documents requires “Pro Forma Compliance” with a test or covenant hereunder or requires such test or covenant to be calculated on a “Pro Forma Basis.”

“Sponsors” shall mean, collectively, Hellman & Friedman LLC and TPG Capital L.L.P. and/or their respective Affiliates.

“SPV” shall have the meaning provided in Section 13.6(c).

“Stated Amount” of any Letter of Credit shall mean the maximum amount from time to time available to be drawn thereunder, determined without regard to whether any conditions to drawing could then be met.

“Stated Liabilities” shall mean the recorded liabilities (including contingent liabilities that would be recorded in accordance with GAAP) of such Person and its Subsidiaries taken as a whole, as of the date hereof after giving effect to the consummation of the Transactions (including the execution and delivery of this Agreement, the making of the Loans and the use of proceeds of such Loans, in each case on the date hereof), determined in accordance with GAAP consistently applied.

“Subject Payments” shall have the meaning provided in the definition of “Remaining Dividends Amount”.

“Subordinated Indebtedness” shall mean any Indebtedness for borrowed money that is subordinated expressly by its terms in right of payment to the Obligations.

“Subordinated Indebtedness Documentation” shall mean any document or instrument issued or executed with respect to any Subordinated Indebtedness.

“Subsidiary” of any Person shall mean and include (a) any corporation more than 50% of whose stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person directly or indirectly through Subsidiaries and (b) any limited liability company, partnership, association, joint venture or other entity in which such Person directly or indirectly through Subsidiaries has more than a 50% equity interest at the time. Unless otherwise expressly provided, all references herein to a “Subsidiary” shall mean a Subsidiary of the Borrower.

“Subsidiary Guarantor” shall mean each Guarantor that is a Subsidiary of the Borrower.

“Successor Borrower” shall have the meaning provided in Section 10.3(a).

“Swap Obligation” has the meaning specified in the definition of “Excluded Swap Obligation.”

“Swap Termination Value” shall mean, in respect of any one or more Hedging Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedging Agreements, (a) for any date on or after the date such Hedging Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedging Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedging Agreements (which may include a Lender or any Affiliate of a Lender).

“Swingline Commitment” shall mean (a) with respect to each Swingline Lender that is a Swingline Lender on the Effective Date, the amount set forth opposite such Swingline Lender’s name on Schedule 1.1(a) as such Swingline Lender’s “Swingline Commitment”, and (b) in the case of any Swingline Lender that becomes a Swingline Lender after the Effective Date, the amount specified as such Swingline Lender’s “Swingline Commitment” in the assignment and acceptance or joinder agreement pursuant to which such Swingline Lender assumed and/or made its portion of the Total Swingline Commitment. The aggregate amount of all Swingline Commitments outstanding at any time shall not exceed \$145,000,000, and the aggregate amount of the Swingline Commitments outstanding as of the Effective Date is \$120,000,000.

“Swingline Exposure” shall mean, with respect to any Lender, at any time, such Lender’s Revolving Credit Commitment Percentage of the Swingline Loans outstanding at such time.

“Swingline Lender” shall mean, at any time, each Lender that has a Swingline Commitment at such time (if any).

“Swingline Loan” shall have the meaning provided in Section 2.1(c).

“Swingline Maturity Date” shall mean, with respect to any Swingline Loan, the date that is five Business Days prior to the Revolving Credit Maturity Date.

“Syndication Agent” shall mean the Person identified on the cover page of this Agreement as such, in its capacity as syndication agent under this Agreement.

“Taxes” shall have the meaning provided in Section 5.4(a).

“Term Lender” shall mean a Lender with a Term Loan Commitment or holding an outstanding Term Loan.

“Term Loan” shall mean an Initial Term Loan, an Incremental Term Loan or any Extended Term Loans, as applicable.

“Term Loan Commitment” shall mean an Initial Term Loan Commitment or any Incremental Term Loan Commitment, as applicable.

“Term Loan Extension Request” shall have the meaning provided in Section 2.15(a)(i).

“Term Loan Facility” shall mean any of the Initial Term Loan Facility, any Incremental Term Loan Facility and any Extended Term Loan Facility.

“Term Loan Increase” shall have the meaning provided in Section 2.14(a).

“Test Period” shall mean, for any determination under this Agreement, the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such date of determination (taken as one accounting period) in respect of which Section 9.1 Financials shall have been (or were required by Section 9.1(a) or Section 9.1(b) to have been) delivered to the Administrative Agent for each fiscal quarter or fiscal year in such period; provided that, prior to the first date that Section 9.1 Financials shall have been delivered pursuant to Section 9.1(a) or (b), the Test Period in effect shall be the period of four consecutive fiscal quarters of the Borrower ended December 31, 2016. A Test Period may be designated by reference to the last day thereof, *i.e.*, the December 31, 2016 Test Period refers to the period of four consecutive fiscal quarters of the Borrower ended December 31, 2016, and a Test Period shall be deemed to end on the last day thereof.

“Total Additional/Replacement Revolving Credit Commitment” shall mean the sum of Additional/Replacement Revolving Credit Commitments of all the Lenders providing any tranche of Additional/Replacement Revolving Credit Commitments.

“Total Commitment” shall mean the sum of the Total Term Loan Commitment, the Total Incremental Term Loan Commitment, the Total Revolving Credit Commitment, the Total Extended Revolving Credit Commitment of each Extension Series and the Total Additional/Replacement Revolving Credit Commitment.

“Total Credit Exposure” shall mean, at any date, the sum of the Total Commitment at such date and the outstanding principal amount of all Term Loans at such date.

“Total Extended Revolving Credit Commitment” shall mean the sum of all Extended Revolving Credit Commitments of all Lenders under each Extension Series.

“Total Incremental Term Loan Commitment” shall mean the sum of the Incremental Term Loan Commitments of any Class of Incremental Term Loans of all the Lenders providing such Class of Incremental Term Loans.

“Total Letter of Credit Commitment” shall mean the sum of the Letter of Credit Commitments of all the Letter of Credit Issuers.

“Total Revolving Credit Commitment” shall mean the sum of the Revolving Credit Commitments of all the Lenders.

“Total Swingline Commitment” shall mean the sum of the Swingline Commitments of all the Swingline Lenders.

“Total Term Loan Commitment” shall mean the sum of the Initial Term Loan Commitments of all the Lenders.

“Transaction Expenses” shall mean any fees or expenses incurred or paid by the Sponsors, Holdings, the Borrower or any of its Restricted Subsidiaries or any of their Affiliates in connection with the Transactions and the transactions contemplated hereby and thereby.

“Transactions” shall mean, collectively, (a) the Refinancing, (b) the entering into of the Credit Documents and the funding of the Initial Term Loans and, to the extent applicable, the Revolving Credit Loans on the Effective Date, (c) the entering into the Senior Note Documents and the issuance of the Senior Notes on the Effective Date, (d) the consummation of any other transactions connected with the foregoing and (e) the payment of fees and expenses in connection with any of the foregoing (including the Transaction Expenses).

“Transferee” shall have the meaning provided in Section 13.6(f).

“Transformative Acquisition” shall mean any acquisition or Investment by the Borrower or any Restricted Subsidiary that either (a) is not permitted by the terms of this Agreement immediately prior to the consummation of such acquisition or Investment or (b) if permitted by the terms of this Agreement immediately prior to the consummation of such acquisition or Investment, would not provide the Borrower and the Restricted Subsidiaries with adequate flexibility under this Agreement for the continuation and/or expansion of their combined operations following such consummation, as determined by the Borrower acting in good faith.

“Type” shall mean (a) as to any Term Loan, its nature as an ABR Loan or a Eurodollar Loan, (b) as to any Revolving Credit Loan, its nature as an ABR Loan or a Eurodollar Loan, (c) as to any Extended Revolving Credit Loan, its nature as an ABR Loan or a Eurodollar Loan and (d) as to any Additional/Replacement Revolving Credit Loan, its nature as an ABR Loan or a Eurodollar Loan.

“UCC” shall mean the Uniform Commercial Code as in effect from time to time (except as otherwise specified) in any applicable state or jurisdiction.

“UCP” shall mean, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce (“ICC”) Publication No. 600 (or such later version thereof as may be in effect at the time of issuance).

“Unfunded Current Liability” of any Pension Plan shall mean the amount, if any, by which the present value of the accrued benefits under the Pension Plan as of the close of its most recent plan year, determined in accordance with Accounting Standards Codification Topic 715 (Compensation Retirement Benefits) as in effect on the Effective Date, based upon the actuarial assumptions that would be used by the Pension Plan’s actuary in a termination of the Pension Plan, exceeds the Fair Market Value of the assets allocable thereto.

“Unpaid Drawing” shall have the meaning provided in Section 3.4(a).

“Unrestricted Subsidiary” shall mean (a) any Subsidiary of the Borrower that is formed or acquired after the Effective Date and is designated as an Unrestricted Subsidiary by the Borrower pursuant to Section 9.16 subsequent to the Effective Date, (b) any existing Restricted Subsidiary of the Borrower that is designated as an Unrestricted Subsidiary by the Borrower pursuant to Section 9.16 subsequent to the Effective Date and (c) any Subsidiary of an Unrestricted Subsidiary

“Voting Stock” shall mean, with respect to any Person, shares of such Person’s Capital Stock having the right to vote for the election of the Board of Directors of such Person under ordinary circumstances.

“Weighted Average Life to Maturity” shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

“Withdrawal Liability” shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

“Withholding Agent” shall mean any Credit Party, the Administrative Agent and, in the case of any U.S. federal withholding tax, any other withholding agent, if applicable.

“Write-Down and Conversion Powers” shall mean, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

1.2 Other Interpretive Provisions. With reference to this Agreement and each other Credit Document, unless otherwise specified herein or in such other Credit Document:

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- (b) The words “herein”, “hereto”, “hereof” and “hereunder” and words of similar import when used in any Credit Document shall refer to such Credit Document as a whole and not to any particular provision thereof.
- (c) Section, Exhibit and Schedule references are to the Credit Document in which such reference appears.
- (d) The term “including” is by way of example and not limitation.

(e) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(f) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including”; the words “to” and “until” each mean “to but excluding”; and the word “through” means “to and including”.

(g) Section headings herein and in the other Credit Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Credit Document.

(h) Any reference to any Person shall be constructed to include such Person’s successors or assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all of the functions thereof.

(i) Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(j) The word “will” shall be construed to have the same meaning as the word “shall”.

(k) The words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(l) [Reserved].

(m) With respect to any amounts incurred or transactions entered into or consummated substantially contemporaneously (whether in a single transaction or series of related transactions) in reliance on a combination of any fixed dollar (or based on a percentage of Consolidated Total Assets or Consolidated EBITDA) exceptions, thresholds or baskets (including the Free and Clear Incremental Amount) or any other provisions of this Agreement that do not require compliance with any financial ratio or leverage test (any such amounts, the “Fixed Baskets”) and on any exceptions, thresholds or baskets (including the Incurrence-Based Incremental Amount) or any other provisions of this Agreement that requires compliance with a financial ratio or leverage test (any such amounts, the “Incurrence-Based Baskets”; it being agreed that for purposes of this Section 1.2(m), any exceptions, thresholds or baskets based on a percentage of Consolidated Total Assets or Consolidated EBITDA shall be Fixed Baskets and not Incurrence-Based Baskets), it is understood and agreed that (i) amounts available under Incurrence-Based Baskets shall first be calculated without giving effect to any Fixed Baskets being relied upon for such incurrence or transactions (*i.e.*, Fixed Baskets shall be disregarded in the calculation of the financial ratio or leverage test applicable to the Incurrence-Based Baskets, but full pro forma effect shall be given to all other applicable and related transactions (and, in the case of Indebtedness, use of the aggregate proceeds of Indebtedness being incurred in reliance on a combination of Fixed Baskets and Incurrence-Based Baskets) and all other permitted Pro Forma Adjustments (except that the incurrence of any Revolving Credit Loans or other revolving

loans prior to or in connection therewith shall be disregarded) and (ii) thereafter, the incurrence of the portion of such amounts or other applicable transaction available to be entered into in reliance on any Fixed Baskets shall be calculated. For example, in calculating the maximum amount of Indebtedness permitted to be incurred under Fixed Baskets and Incurrence-Based Baskets in Section 10.1 in connection with an acquisition, only the portion of such Indebtedness intended to be incurred under Incurrence-Based Baskets shall be included in the calculation of financial ratios or leverage tests (and the portion of such Indebtedness intended to be incurred under Fixed Baskets shall be deemed to not have been incurred in calculating such financial ratios or leverage tests), but Pro Forma Effect shall be given to the use of proceeds from the entire amount of Indebtedness intended to be incurred under both the Fixed Baskets and Incurrence-Based Baskets, the consummation of the acquisitions and any related repayments of Indebtedness.

(n) Notwithstanding anything to the contrary herein, in the event an item of Indebtedness (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on an Incurrence-Based Basket, such Incurrence-Based Basket shall be calculated without regard to the incurrence of any Revolving Credit Loans or any other revolving credit loans prior to or in connection therewith (except that, with respect to any Incremental Revolving Credit Commitments being established under the Incurrence-Based Incremental Amount, the Incurrence-Based Incremental Amount shall be calculated assuming, solely at the time of establishment of such Incremental Revolving Credit Commitments, a borrowing of the maximum amount of Loans thereunder and under all other previously incurred and then outstanding Incremental Revolving Credit Commitments (except to the extent that such Incremental Revolving Credit Commitments refinanced or replaced all or any portion of the Revolving Credit Commitments outstanding on the Effective Date)).

(o) Notwithstanding anything in this Agreement or any Credit Document to the contrary, when (a) calculating any applicable ratio, basket, Consolidated Total Assets, Consolidated Net Income or Consolidated EBITDA in connection with the incurrence of Indebtedness, the issuance of Disqualified Capital Stock or preferred stock, the creation of Liens, the making of any Disposition, the making of an Investment, the making of a Dividend, the designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary or the repayment of Indebtedness, Disqualified Capital Stock or preferred stock, (b) determining compliance with any provision of this Agreement which requires that no Default or Event of Default has occurred, is continuing or would result therefrom, (c) determining compliance with any provision of this Agreement which requires compliance with any representations and warranties set forth herein or (d) determining the satisfaction of all other conditions precedent to the incurrence of Indebtedness, the issuance of Disqualified Capital Stock or preferred stock, the creation of Liens, the making of any Disposition, the making of an Investment, the making of a Dividend, the designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary or the repayment of Indebtedness, Disqualified Capital Stock or preferred stock, in each case in connection with a Limited Condition Transaction, the date of determination of such ratio, basket or other provisions, determination of whether any Default or Event of Default has occurred, is continuing or would result therefrom, determination of compliance with any representations or warranties or the satisfaction of any other conditions shall, at the option of the Borrower (the Borrower's election to exercise such option in connection with any Limited Condition Transaction, an "LCT Election"), be the LCT Test Date, and, if after giving Pro Forma

Effect to the Limited Condition Transaction and the other transactions to be entered into in connection therewith as if they had occurred at the beginning of the most recent Test Period ending prior to the LCT Test Date (or, in the case of any incurrence or repayment of Indebtedness (except in the case of the Consolidated EBITDA to Consolidated Interest Expense Ratio (or similar ratio)), as if incurred (or repaid, as applicable) on the last day of the applicable Test Period), the Borrower could have consummated such Limited Condition Transaction on the relevant LCT Test Date in compliance with such ratio, basket or other provision, such ratio, basket or other provision shall be deemed to have been complied with; provided that (i) if financial statements for one or more subsequent fiscal quarters shall have become available, the Borrower may elect, in its sole discretion, to re-determine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of redetermination shall thereafter be deemed to be the applicable LCT Test Date for such ratios, tests or baskets and (ii) such ratios, baskets and other provisions shall not be tested at the time of consummation of such Limited Condition Transaction. For the avoidance of doubt, if, following the LCT Test Date, any of such ratios, baskets or other provisions are exceeded or breached as a result of fluctuations in such ratio or basket (including due to fluctuations in Consolidated Total Assets, Consolidated EBITDA or other components of such ratio or basket) or other provision at or prior to the consummation of the relevant Limited Condition Transaction, such ratios, baskets and other provisions will not be deemed to have been failed to have been satisfied or exceeded, respectively, as a result of such fluctuations solely for purposes of determining whether the Limited Condition Transaction and related transactions are permitted hereunder. If the Borrower has made an LCT Election for any Limited Condition Transaction, then in connection with any subsequent calculation of any ratio, basket or other provision (other than for purposes of (i) testing actual compliance with Sections 10.9 and 10.10 or (ii) determining the Applicable Margin or the Commitment Fee Rate) on or following the relevant LCT Test Date and prior to the earlier of (i) the date on which such Limited Condition Transaction is consummated or (ii) the date that the definitive agreement for such Limited Condition Transaction is terminated or expires without consummation of such Limited Condition Transaction, any such ratio, basket or other provision shall be calculated on a Pro Forma Basis assuming such Limited Condition Transaction and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated until such time as the applicable Limited Condition Transaction has actually closed or the definitive agreement with respect thereto has been terminated or expired.

### 1.3 Accounting Terms.

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a manner consistent with that used in preparing the Historical Financial Statements, except as otherwise specifically prescribed herein; provided that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Effective Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the



basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

(b) Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Financial Accounting Standards Accounting Standards Codification No. 825—Financial Instruments, or any successor thereto (including pursuant to the Accounting Standards Codification), to value any Indebtedness of Holdings, the Borrower or any Subsidiary at “fair value” as defined therein.

1.4 Rounding. Any financial ratios required to be maintained or complied with by the Borrower pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under this Agreement) shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.5 References to Agreements, Laws, etc. Unless otherwise expressly provided herein, (a) references to Organizational Documents, agreements (including the Credit Documents) and other Contractual Obligations shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, amendment and restatements, extensions, supplements and other modifications are permitted by any Credit Document; and (b) references to any Applicable Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Applicable Law.

1.6 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

1.7 Timing of Payment or Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in Section 2.5 or Section 2.9) or performance shall extend to the immediately succeeding Business Day.

1.8 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the Stated Amount of such Letter of Credit in effect at such time; provided that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the Stated Amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum Stated Amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum Stated Amount is in effect at such time.

## 1.9 Currency Equivalents Generally.

(a) For purposes of any determination under Section 9, Section 10 (other than Section 10.9 or 10.10) or Section 11 or any determination under any other provision of this Agreement requiring the use of a current exchange rate, all amounts incurred, outstanding or proposed to be incurred or outstanding in currencies other than Dollars shall be translated into Dollars at the Exchange Rate then in effect on the date of such determination; provided that (x) for purposes of determining compliance with Section 10 with respect to the amount of any Indebtedness, Investment, Disposition, Dividend or payment under Section 10.7 in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Indebtedness or Investment is incurred or Disposition, Dividend or payment under Section 10.7 is made, (y) for purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, if such Indebtedness is incurred to Refinance other Indebtedness denominated in a foreign currency, and such Refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such Refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinanced Indebtedness does not exceed the principal amount of such Indebtedness being Refinanced and (z) for the avoidance of doubt, the foregoing provisions of this Section 1.9 shall otherwise apply to such Sections, including with respect to determining whether any Indebtedness or Investment may be incurred or Disposition, Dividend or payment under Section 10.7 may be made at any time under such Sections. For purposes of Section 10.9 or 10.10, amounts in currencies other than Dollars shall be translated into Dollars at the applicable Exchange Rate(s) used in preparing the most recently delivered financial statements pursuant to Section 9.1(a) or (b).

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify with the Borrower's consent (such consent not to be unreasonably withheld) to appropriately reflect a change in currency of any country and any relevant market conventions or practices relating to such change in currency.

1.10 Pro Forma Basis. Notwithstanding anything to the contrary herein, for purposes of determining compliance with any test or covenant contained in this Agreement, including the Consolidated Secured Debt to Consolidated EBITDA Ratio, the Consolidated Total Debt to Consolidated EBITDA Ratio and the Consolidated EBITDA to Consolidated Interest Expense Ratio and Consolidated Total Assets or Consolidated EBITDA for purposes of determining an amount based on a percentage of Consolidated Total Assets or Consolidated EBITDA shall be calculated on a Pro Forma Basis assuming that any Specified Transaction that has been made (i) during the applicable Test Period and (ii) other than for purposes of calculating the "Applicable Margin" and actual compliance with Sections 10.9 and 10.10, subsequent to the Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a Pro Forma Basis.

1.11 Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a "Revolving Credit Loan") or by Type (e.g., a "Eurodollar Loan"). Borrowings also may be classified and referred to by Class (e.g., a "Revolving Credit Borrowing") or by Type (e.g., a "Eurodollar Borrowing").

1.12 Guaranties of Hedging Obligations. Notwithstanding anything else to the contrary in any Credit Document, no Specified Credit Party shall be required to guarantee or provide security for Excluded Swap Obligations, and any reference in any Credit Document with respect to such Specified Credit Party guaranteeing or providing security for the Obligations shall be deemed to be all Obligations other than the Excluded Swap Obligations.

## SECTION 2. Amount and Terms of Credit Facilities

2.1 Loans. i) Subject to and upon the terms and conditions set forth in the Amendment, each Lender having an “Initial Term Loan Commitment” severally agrees to make a loan or loans (each, an “Initial Term Loan”) to the Borrower, which (i) shall not exceed, for any such Lender, the Initial Term Loan Commitment of such Lender, (ii) shall not exceed, in the aggregate, the Total Term Loan Commitment, (iii) shall be made on the Effective Date, (iv) shall be denominated in U.S. Dollars, (v) may at the option of the Borrower be incurred and maintained as, and/or converted into, ABR Loans or Eurodollar Loans, and (vi) may be repaid or prepaid in accordance with the provisions hereof, but once repaid or prepaid may not be reborrowed. On the Initial Term Loan Maturity Date, all outstanding Initial Term Loans shall be repaid in full.

(a) Subject to and upon the terms and conditions herein set forth, each Revolving Credit Lender severally agrees to make a loan or loans (each, a “Revolving Credit Loan”) to the Borrower in U.S. Dollars, which Revolving Credit Loans (i) shall not exceed, for any such Lender, the Revolving Credit Commitment of such Lender, (ii) shall not, after giving effect thereto and to the application of the proceeds thereof, result in such Lender’s Revolving Credit Exposure at such time exceeding such Lender’s Revolving Credit Commitment at such time, (iii) shall not, after giving effect thereto and to the application of the proceeds thereof, at any time result in the aggregate amount of all Lenders’ Revolving Credit Exposures exceeding the Total Revolving Credit Commitment then in effect, (iv) shall be made at any time and from time to time on and after the Effective Date and prior to the Revolving Credit Maturity Date, (v) may at the option of the Borrower be incurred and maintained as, and/or converted into, ABR Loans or Eurodollar Loans; provided that all Revolving Credit Loans made by each of the Lenders pursuant to the same Borrowing shall, unless otherwise specifically provided herein, consist entirely of Revolving Credit Loans of the same Type and (vi) may be repaid and reborrowed in accordance with the provisions hereof. On the Revolving Credit Maturity Date, all outstanding Revolving Credit Loans shall be repaid in full and the Revolving Credit Commitments shall terminate.

(b) Each Lender may at its option make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided, that (i) any exercise of such option shall not affect the obligation of the Borrower to repay such Loan and (ii) in exercising such option, such Lender shall use its reasonable efforts to minimize any increased costs to the Borrower resulting therefrom (which obligation of the Lender shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it determines would be otherwise disadvantageous to it and in the event of such request for costs for which compensation is provided under this Agreement, the provisions of Section 2.10 shall apply).

(c) Subject to and upon the terms and conditions herein set forth, each Swingline Lender in its individual capacity agrees, at any time and from time to time on and after the Effective Date and prior to the Swingline Maturity Date, to make a loan or loans (each, a “Swingline Loan” and collectively, the “Swingline Loans”) to the Borrower in U.S. Dollars, which Swingline Loans (A) shall be ABR Loans, (B) shall have the benefit of the provisions of Section 2.1(d), (C) shall not exceed at any time outstanding the Swingline Commitment of such Swingline Lender, (D) shall not, after giving effect thereto and to the application of the proceeds thereof, result at any time in the aggregate amount of all Lenders’ Revolving Credit Exposures exceeding the Total Revolving Credit Commitment then in effect and (E) may be repaid and reborrowed in accordance with the provisions hereof. On the Swingline Maturity Date, all outstanding Swingline Loans shall be repaid in full. No Swingline Lender shall make any Swingline Loan after receiving a written notice from the Borrower, the Administrative Agent or the Required Lenders stating that a Default or an Event of Default exists and is continuing until such time as such Swingline Lender shall have received written notice (x) of rescission of all such notices from the party or parties originally delivering such notice, (y) of the waiver of such Default or Event of Default in accordance with the provisions of Section 13.1 or (z) from the Administrative Agent that such Default or Event of Default is no longer continuing.

(d) Any Swingline Lender (x) may in its sole discretion on any Business Day prior to the tenth Business Day after the date of extension of any Swingline Loan and (y) shall on the tenth Business Day after such extension date (so long as such Swingline Loan remains outstanding), give notice to the Revolving Credit Lenders, with a copy to the Borrower, that all then-outstanding Swingline Loans shall be funded with a Borrowing of Revolving Credit Loans denominated in U.S. Dollars, in which case Revolving Credit Loans constituting ABR Loans (each such Borrowing, a “Mandatory Borrowing”) shall be made on the immediately succeeding Business Day by all Revolving Credit Lenders pro rata based on each such Lender’s Revolving Credit Commitment Percentage, and the proceeds thereof shall be applied directly to such Swingline Lender to repay the Swingline Lender for such outstanding Swingline Loans. Each Revolving Credit Lender hereby irrevocably agrees to make such Revolving Credit Loans upon one Business Day’s notice pursuant to each Mandatory Borrowing in the amount and in the manner specified in the preceding sentence and on the date specified to it in writing by such Swingline Lender notwithstanding (i) that the amount of the Mandatory Borrowing may not comply with the minimum amount for each Borrowing specified in Section 2.2, (ii) whether any conditions specified in Section 7.1 are then satisfied, (iii) whether a Default or an Event of Default has occurred and is continuing, (iv) the date of such Mandatory Borrowing or (v) any reduction in the Total Revolving Credit Commitment after any such Swingline Loans were made. In the event that, in the sole judgment of the applicable Swingline Lender, any Mandatory Borrowing cannot for any reason be made on the date otherwise required above (including as a result of the commencement of a proceeding under the Bankruptcy Code in respect of the Borrower), each Revolving Credit Lender hereby agrees that it shall forthwith purchase from such Swingline Lender (without recourse or warranty) such participation of the outstanding Swingline Loans as shall be necessary to cause each such Lender to share in such Swingline Loans ratably based upon their respective Revolving Credit Commitment Percentages; provided that all principal and interest payable on such Swingline Loans shall be for the account of such Swingline Lender until the date the respective participation is purchased and, to the extent attributable to the purchased participation, shall be payable to the Lender purchasing same from and after such date of purchase.

(e) The Borrower may, at any time and from time to time, designate as additional Swingline Lenders one or more Revolving Credit Lenders that agree to serve in such capacity as provided below. The acceptance by a Revolving Credit Lender of an appointment as a Swingline Lender hereunder shall be evidenced by an agreement, which shall be in form and substance reasonably satisfactory to the Administrative Agent and the Borrower, executed by the Borrower, the Administrative Agent and such designated Swingline Lender, and, from and after the effective date of such agreement, (i) such Revolving Credit Lender shall have all the rights and obligations of a Swingline Lender under this Agreement and (ii) references herein to the term “Swingline Lender” shall be deemed to include such Revolving Credit Lender in its capacity as a lender of Swingline Loans hereunder.

(f) The Borrower may terminate the appointment of any Swingline Lender as a “Swingline Lender” hereunder by providing a written notice thereof to such Swingline Lender, with a copy to the Administrative Agent. Any such termination shall become effective upon the earlier of (i) such Swingline Lender’s acknowledging receipt of such notice and (ii) the fifth Business Day following the date of the delivery thereof; provided that no such termination shall become effective until and unless the Swingline Exposure of such Swingline Lender shall have been reduced to zero. Notwithstanding the effectiveness of any such termination, the terminated Swingline Lender shall remain a party hereto and shall continue to have all the rights of a Swingline Lender under this Agreement with respect to Swingline Loans made by it prior to such termination, but shall not make any additional Swingline Loans.

2.2 Minimum Amount of Each Borrowing; Maximum Number of Borrowings. The aggregate principal amount of each Borrowing of Term Loans or Revolving Credit Loans shall be in a multiple of \$1,000,000 and Swingline Loans shall be in a multiple of \$100,000 and, in each case, shall not be less than the Minimum Borrowing Amount with respect thereto (except that Mandatory Borrowings shall be made in the amounts required by Section 2.1(d) and Revolving Credit Loans to reimburse the Letter of Credit Issuers with respect to any Unpaid Drawing shall be made in the amounts required by Section 3.3 or Section 3.4, as applicable). More than one Borrowing may be incurred on any date; provided that at no time shall there be outstanding more than 20 Borrowings of Eurodollar Loans under this Agreement. For purposes of the foregoing, Borrowings having different Interest Periods, regardless of whether they commence on the same date, shall be considered separate Borrowings.

2.3 Notice of Borrowing. (a) The Borrower shall give the Administrative Agent at the Administrative Agent’s Office (i) prior to 1:00 p.m. (New York City time) at least three Business Days’ prior written notice (or telephonic notice promptly confirmed in writing) of the Borrowing of Initial Term Loans or any Borrowing of Incremental Term Loans (unless otherwise set forth in the applicable Incremental Agreement), as the case may be, if all or any of such Term Loans are to be initially Eurodollar Loans, and (ii) prior written notice (or telephonic notice promptly confirmed in writing) prior to 10:00 a.m. (New York City time) on the date of the Borrowing of Initial Term Loans or any Borrowing of Incremental Term Loans, as the case may be, if all such Term Loans are to be ABR Loans. Such notice (together with each notice of a Borrowing of Revolving Credit Loans pursuant to Section 2.3(b) and each notice of a Borrowing of Swingline Loans pursuant to Section 2.3(d), a “Notice of Borrowing”) shall specify substantially in the form of Exhibit D (i) the aggregate principal amount of the Initial Term Loans or Incremental Term Loans, as the case may be, to be made, (ii) the date of the Borrowing

(which shall be (x) in the case of Initial Term Loans, the Effective Date and (y) in the case of Incremental Term Loans, the applicable Incremental Facility Closing Date in respect of such Class), and (iii) whether the Initial Term Loans or Incremental Term Loans, as the case may be, shall consist of ABR Loans and/or Eurodollar Loans and, if the Initial Term Loans or Incremental Term Loans, as the case may be, are to include Eurodollar Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall promptly give each Lender written notice (or telephonic notice promptly confirmed in writing) of each proposed Borrowing of Term Loans, of such Lender's proportionate share thereof and of the other matters covered by the related Notice of Borrowing.

(b) Whenever the Borrower desires to incur Revolving Credit Loans hereunder (other than Mandatory Borrowings or borrowings to repay Unpaid Drawings under Letters of Credit), it shall give the Administrative Agent at the Administrative Agent's Office, (i) prior to 1:00 p.m. (New York City time) at least three Business Days' prior written notice (or telephonic notice promptly confirmed in writing) of each Borrowing of Revolving Credit Loans that are to be Eurodollar Loans, and (ii) prior written notice (or telephonic notice promptly confirmed in writing) prior to 10:00 a.m. (New York City time) on the date of each Borrowing of Revolving Credit Loans that are to be ABR Loans. Each such Notice of Borrowing, except as otherwise expressly provided in Section 2.10, shall specify (x) the aggregate principal amount of the Revolving Credit Loans to be made pursuant to such Borrowing, (y) the date of Borrowing (which shall be a Business Day) and (z) whether the respective Borrowing shall consist of ABR Loans or Eurodollar Loans and, if Eurodollar Loans, the Interest Period to be initially applicable thereto. The Administrative Agent shall promptly give each Lender written notice (or telephonic notice promptly confirmed in writing) of each proposed Borrowing of Revolving Credit Loans, of such Lender's proportionate share thereof and of the other matters covered by the related Notice of Borrowing.

(c) Whenever the Borrower desires to incur Swingline Loans hereunder, it shall give the Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of each Borrowing of Swingline Loans prior to 3:00 p.m. (New York City time) or such later time as is agreed by the applicable Swingline Lender on the date of such Borrowing. Each such notice shall be irrevocable and shall specify (i) the aggregate principal amount of the Swingline Loans to be made pursuant to such Borrowing and (ii) the date of Borrowing (which shall be a Business Day). The Administrative Agent shall promptly give the applicable Swingline Lender written notice (or telephonic notice promptly confirmed in writing) of each proposed Borrowing of Swingline Loans and of the other matters covered by the related Notice of Borrowing.

(d) Mandatory Borrowings shall be made upon the notice specified in Section 2.1(d), with the Borrower irrevocably agreeing, by its incurrence of any Swingline Loan, to the making of Mandatory Borrowings as set forth in such Section.

(e) Borrowings of Revolving Credit Loans to reimburse Unpaid Drawings under Letters of Credit shall be made upon the terms set forth in Section 3.3 or Section 3.4(a).

(f) Without in any way limiting the obligation of the Borrower to confirm in writing any notice it may give hereunder by telephone, the Administrative Agent may act prior to receipt of written confirmation without liability upon the basis of such telephonic notice believed by the Administrative Agent in good faith to be from an Authorized Officer of the Borrower. In each such case, the Borrower hereby waives the right to dispute the Administrative Agent's record of the terms of any such telephonic notice.

(g) If the Borrower fails to specify a Type of Loan in a Notice of Borrowing then the applicable Term Loans or Revolving Credit Loans shall be made as Eurodollar Loans with an Interest Period of one (1) month. If the Borrower requests a Borrowing of Eurodollar Loans in any such Notice of Borrowing, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one (1) month.

2.4 Disbursement of Funds. (a) No later than 2:00 p.m. (New York City time) on the date specified in each Notice of Borrowing (including Mandatory Borrowings and Borrowings to reimburse Unpaid Drawings under Letters of Credit), each Lender will make available its pro rata portion, if any, of each Borrowing requested to be made on such date in the manner provided below; provided that on the Effective Date (or with respect to any Incremental Facilities, on the relevant Incremental Facility Closing Date), such funds may be made available at such earlier time as may be agreed among the relevant Lenders, the Borrower and the Administrative Agent for the purpose of consummating the Transactions; provided, further, that all Swingline Loans shall be made available to the Borrower in the full amount thereof by the applicable Swingline Lender no later than 4:00 p.m. (New York City time) on the date requested.

(b) Each Lender shall make available all amounts it is to fund to the Borrower under any Borrowing for its applicable Commitments in immediately available funds to the Administrative Agent at the Administrative Agent's Office and the Administrative Agent will (except in the case of Mandatory Borrowings and Borrowings to repay Unpaid Drawings under Letters of Credit) make available to the Borrower, by depositing to an account designated by the Borrower to the Administrative Agent in writing, the aggregate of the amounts so made available in Dollars. Unless the Administrative Agent shall have been notified by any Lender prior to the date of any such Borrowing that such Lender does not intend to make available to the Administrative Agent its portion of the Borrowing or Borrowings to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing, and the Administrative Agent, in reliance upon such assumption, may (in its sole discretion and without any obligation to do so) make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and the Administrative Agent has made available same to the Borrower, the Administrative Agent shall be entitled to recover such corresponding amount from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify the Borrower and the Borrower shall immediately pay such corresponding amount to the Administrative Agent. The Administrative Agent shall also be entitled to recover from such Lender or the Borrower, as the case may be, interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower, to the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if paid by such Lender, the Federal Funds Effective Rate or (ii) if paid by the Borrower, the then-applicable rate of interest,

calculated in accordance with Section 2.8, for the respective Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent. Each Swingline Lender shall make available all amounts it is to fund to the Borrower under any Borrowing of Swingline Loans in immediately available funds to the Borrower by depositing to an account designated by the Borrower to such Swingline Lender in writing.

(c) Nothing in this Section 2.4 shall be deemed to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights that the Borrower may have against any Lender as a result of any default by such Lender hereunder (it being understood, however, that no Lender shall be responsible for the failure of any other Lender to fulfill its commitments hereunder)

(d) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Letter of Credit Issuers hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Letter of Credit Issuers, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Letter of Credit Issuers, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the Letter of Credit Issuers, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the Federal Funds Effective Rate.

#### 2.5 Repayment of Loans; Evidence of Debt.

(a) The Borrower agrees to repay to the Administrative Agent, for the benefit of the applicable Lenders, (i) on the Initial Term Loan Maturity Date, all then outstanding Initial Term Loans, (ii) on the relevant Incremental Term Loan Maturity Date for any Class of Incremental Term Loans, any then outstanding Incremental Term Loans of such Class, (iii) on the Revolving Credit Maturity Date, all then outstanding Revolving Credit Loans, (iv) on the relevant maturity date for any Class of Additional/Replacement Revolving Credit Commitments, all then outstanding Additional/Replacement Revolving Credit Loans of such Class, (v) on the relevant maturity date for any Class of Extended Term Loans, all then outstanding Extended Term Loans of such Class, (vi) on the relevant maturity date for any Class of Extended Revolving Credit Commitments, all then outstanding Extended Revolving Credit Loans of such Class and (vii) on the Swingline Maturity Date, all then outstanding Swingline Loans.

(b) The Borrower shall repay to the Administrative Agent, for the benefit of the Initial Term Lenders, on the last Business Day of each March, June, September and



December (each such date, with respect to the Initial Term Lenders, an “Initial Term Loan Repayment Date”), commencing on the last Business Day of the first full fiscal quarter ending after the Effective Date, an aggregate principal amount of Initial Term Loans equal to 0.25% of the aggregate principal amount of Initial Term Loans outstanding on the Effective Date (each such amount, a “Initial Term Loan Repayment Amount”) (as such principal amount may be reduced by, and after giving effect to, any voluntary and mandatory prepayments made in accordance with Section 5 or as contemplated by Section 2.15).

(c) In the event any Incremental Term Loans are made, such Incremental Term Loans shall mature and be repaid in amounts (each such amount, an “Incremental Term Loan Repayment Amount”) and on dates as agreed between the Borrower and the relevant Lenders of such Incremental Term Loans in the applicable Incremental Agreement (each an “Incremental Term Loan Repayment Date”), subject to the requirements set forth in Section 2.14. In the event that any Extended Term Loans are established, such Extended Term Loans shall, subject to the requirements of Section 2.15, mature and be repaid by the Borrower in the amounts (each such amount, an “Extended Term Loan Repayment Amount”) and on the dates (each an “Extended Repayment Date”) set forth in the applicable Extension Agreement. In the event any Extended Revolving Credit Commitments are established, such Extended Revolving Credit Commitments shall, subject to the requirements of Section 2.15, be terminated (and all Extended Revolving Credit Loans of the same Extension Series repaid) on the dates set forth in the applicable Extension Agreement.

(d) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to the appropriate lending office of such Lender resulting from each Loan made by such lending office of such Lender from time to time, including the amounts of principal and interest payable and paid to such lending office of such Lender from time to time under this Agreement.

(e) The Administrative Agent, on behalf of the Borrower, shall maintain the Register pursuant to Section 13.6(b) and a subaccount for each Lender, in which the Register and the subaccounts (taken together) shall be recorded (i) the amount of each Loan made hereunder, whether such Loan is a Initial Term Loan, an Incremental Term Loan (and the relevant Class thereof), a Revolving Credit Loan, an Additional/Replacement Revolving Credit Loan (and the relevant Class thereof), an Extended Term Loan (and the relevant Class thereof), an Extended Revolving Credit Loan (and the relevant Class thereof) or a Swingline Loan, as applicable, the Type of each Loan made and the Interest Period, if any, applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender or each Swingline Lender hereunder, (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Lender’s share thereof and (iv) any cancellation or retirement of Loans contemplated by Section 13.6(i).

(f) The entries made in the Register and accounts and subaccounts maintained pursuant to paragraphs (d) and (e) of this Section 2.5 shall, to the extent permitted by Applicable Law, be prima facie evidence of the existence and amounts of the obligations of the Borrower therein recorded; provided that the failure of any Lender or the Administrative Agent to maintain such account, such Register or such subaccount, as applicable, or any error therein, shall not in any manner affect the obligation of the Borrower to repay (with applicable interest) the Loans made to the Borrower by such Lender in accordance with the terms of this Agreement.

2.6 Conversions and Continuations. (a) The Borrower shall have the option on any Business Day, subject to Section 2.11, to convert all or a portion equal to at least the Minimum Borrowing Amount of the outstanding principal amount of Term Loans, Revolving Credit Loans, Additional/Replacement Revolving Credit Loans or Extended Revolving Credit Loans of one Type into a Borrowing or Borrowings of another Type and except as otherwise provided herein the Borrower shall have the option on the last day of an Interest Period to continue the outstanding principal amount of any Eurodollar Loans as Eurodollar Loans for an additional Interest Period; provided that (i) no partial conversion of Eurodollar Loans shall reduce the outstanding principal amount of Eurodollar Loans made pursuant to a single Borrowing to less than the Minimum Borrowing Amount, (ii) ABR Loans may not be converted into Eurodollar Loans if an Event of Default is in existence on the date of the conversion and the Administrative Agent has, or the Required Credit Facility Lenders with respect to any such Credit Facility have, determined in its or their sole discretion not to permit such conversion, (iii) Eurodollar Loans may not be continued as Eurodollar Loans for an additional Interest Period if an Event of Default is in existence on the date of the proposed continuation and the Administrative Agent has, or the Required Credit Facility Lenders with respect to any such Credit Facility have, determined in its or their sole discretion not to permit such continuation and (iv) Borrowings resulting from conversions pursuant to this Section 2.6 shall be limited in number as provided in Section 2.2. Each such conversion or continuation shall be effected by the Borrower giving the Administrative Agent at the Administrative Agent's Office prior to 1:00 p.m. (New York City time) at least (i) three Business Days', in the case of a continuation of, or conversion to, Eurodollar Loans or (ii) one Business Day's, in the case of a conversion into ABR Loans, prior written notice (or telephonic notice promptly confirmed in writing) (each, a "Notice of Conversion or Continuation") specifying the Loans to be so converted or continued, the Type of Loans to be converted into or continued, the requested date of the conversion or continuation, as the case may be (which shall be a Business Day), the principal amount of Loans to be converted or continued, as the case may be, and, if such Loans are to be converted into, or continued as, Eurodollar Loans, the Interest Period to be initially applicable thereto. If the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Term Loans, Revolving Credit Loans, Additional/Replacement Revolving Credit Loans or Extended Revolving Credit Loans shall be made or continued as the same Type of Loan, which, if a Eurodollar Loan, shall have the same Interest Period as that of the Loans being continued or converted (subject to the definition of Interest Period). Any such automatic continuation shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Loans. If the Borrower requests a conversion to, or continuation of Eurodollar Loans in any such Notice of Conversion or Continuation, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month's duration. Notwithstanding anything to the contrary herein, a Swingline Loan may not be converted to a Eurodollar Loan. The Administrative Agent shall give each applicable Lender notice as promptly as practicable of any such proposed conversion or continuation affecting any of its Loans.

(b) If an Event of Default is in existence at the time of any proposed continuation of any Eurodollar Loans and the Administrative Agent has, or the Required Lenders with respect to any such continuation have, determined in its or their sole discretion not to permit such continuation, Eurodollar Loans shall be automatically converted on the last day of the current Interest Period into ABR Loans.

2.7 Pro Rata Borrowings. Each Borrowing of Initial Term Loans under this Agreement shall be granted by the Initial Term Lenders pro rata on the basis of their then-applicable Initial Term Loan Commitments. Each Borrowing of Revolving Credit Loans under this Agreement shall be granted by the Revolving Credit Lenders pro rata on the basis of their then-applicable Revolving Credit Commitment Percentages with respect to the applicable Class. Each Borrowing of Incremental Term Loans under this Agreement shall be granted by the Lenders of the relevant Class thereof pro rata on the basis of their then-applicable Incremental Term Loan Commitments for such Class. Each Borrowing of Additional/Replacement Revolving Credit Loans under this Agreement shall be granted by the Lenders of the relevant Class thereof pro rata on the basis of their then-applicable Additional/Replacement Revolving Credit Commitments for such Class. Each Borrowing of Extended Revolving Credit Loans under this Agreement shall be granted by the Lenders of the relevant Class thereof pro rata on the basis of their then-applicable Extended Revolving Credit Commitments for such Class. It is understood that (a) no Lender shall be responsible for any default by any other Lender in its obligation to make Loans hereunder and that each Lender, severally and not jointly, shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Lender to fulfill its commitments hereunder, and (b) other than as expressly provided herein with respect to a Defaulting Lender, failure by a Lender to perform any of its obligations under any of the Credit Documents shall not release any Person from performance of its obligations under any Credit Document.

2.8 Interest. (a) The unpaid principal amount of each ABR Loan shall bear interest from the date of the Borrowing thereof until maturity (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin in effect from time to time plus the ABR in effect from time to time.

(b) The unpaid principal amount of each Eurodollar Loan shall bear interest from the date of the Borrowing thereof until maturity thereof (whether by acceleration or otherwise) at a rate per annum that shall at all times be the Applicable Margin in effect from time to time plus the Eurodollar Rate in effect from time to time.

(c) If all or a portion of the principal amount of any Loan or any interest payable thereon or any fees or other amounts due hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) at a rate per annum that is (i) in the case of overdue principal, the rate that would otherwise be applicable thereto plus 2% or (ii) in the case of overdue interest, fees or other amounts due hereunder, to the extent permitted by Applicable Law, the rate described in Section 2.8 (a) plus 2% from and including the date of such non-payment to but excluding the date on which such amount is paid in full (after as well as before judgment). All such interest shall be payable on demand.

(d) Interest on each Loan shall accrue from and including the date of any Borrowing to but excluding the date of any repayment thereof and shall be payable in U.S.

Dollars and, except as provided below, shall be payable (i) in respect of each ABR Loan, quarterly in arrears on the last Business Day of each March, June, September and December, (ii) in respect of each Eurodollar Loan, on the last day of each Interest Period applicable thereto and, in the case of an Interest Period in excess of three months, on each date occurring at three-month intervals after the first day of such Interest Period, and (iii) in respect of each Loan (except, in the case of prepayments, any ABR Loan), on any prepayment (on the amount prepaid), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand; provided that any Loan that is repaid on the same date on which it is made shall bear interest for one day.

(e) All computations of interest hereunder shall be made in accordance with Section 5.5.

(f) The Administrative Agent, upon determining the interest rate for any Borrowing of Eurodollar Loans, shall promptly notify the Borrower and the relevant Lenders thereof. Each such determination shall, absent clearly demonstrable error, be final and conclusive and binding on all parties hereto.

(g) Except as otherwise provided herein, whenever any payment hereunder or under the other Credit Documents shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest or commitment or letter of credit fee or commission, as the case may be.

2.9 Interest Periods. At the time the Borrower gives a Notice of Borrowing or Notice of Conversion or Continuation in respect of the making of, or conversion into or continuation as, a Borrowing of Eurodollar Loans (in the case of the initial Interest Period applicable thereto) on or prior to 1:00 p.m. (New York City time) on the third Business Day prior to the expiration of an Interest Period applicable to a Borrowing of Eurodollar Loans, the Borrower shall have the right to elect, by giving the Administrative Agent written notice (or telephonic notice promptly confirmed in writing), the Interest Period applicable to such Borrowing, which Interest Period shall be the period commencing on the date of such Borrowing and ending on the numerically corresponding day (or, if there is no numerically corresponding day, on the last Business Day) in the calendar month that is one, two, three or six months thereafter (or, if available to all relevant Lenders participating in the relevant Credit Facility, (i) twelve months thereafter or (ii) another period acceptable to the Administrative Agent (including a shorter period)); provided that, notwithstanding the foregoing parenthetical, the initial Interest Period beginning on the Effective Date may be for a period less than one month if agreed upon by the Borrower and the Administrative Agent.

Notwithstanding anything to the contrary contained above:

(i) the initial Interest Period for any Borrowing of Eurodollar Loans shall commence on the date of such Borrowing (including the date of any conversion from a Borrowing of ABR Loans) and each Interest Period occurring thereafter in respect of such Borrowing shall commence on the day on which the next preceding Interest Period expires;

(ii) if any Interest Period relating to a Borrowing of Eurodollar Loans begins on the last Business Day of a calendar month or begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of the calendar month at the end of such Interest Period;

(iii) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(iv) Interest shall accrue from and including the first day of an Interest Period to but excluding the last day of such Interest Period; and

(v) the Borrower shall not be entitled to elect any Interest Period in respect of any Eurodollar Loan if such Interest Period would extend beyond the applicable Maturity Date of such Loan.

2.10 Increased Costs, Illegality, Etc. (a) In the event that (x) in the case of clause (i) below, the Required Lenders or (y) in the case of clauses (ii) and (iii) below, any Lender shall have reasonably determined (which determination shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto):

(i) on any date for determining the Eurodollar Rate for any Interest Period that (x) deposits in the principal amounts of the Loans comprising any Eurodollar Borrowing are not generally available in the relevant market or (y) by reason of any changes arising on or after the Effective Date affecting the interbank Eurodollar market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of Eurodollar Rate; or

(ii) that, due to a Change in Law, which shall (A) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender; (B) subject any Lender to any tax (other than (1) taxes indemnified under Section 5.4, (2) taxes described in clause (A), (B) or (C) of Section 5.4(a) or (3) taxes described in clause (f) of Section 5.4) on its loans, letters of credits, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or (C) impose on any Lender or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Loans made by such Lender, which results in the cost to such Lender of making, converting into, continuing or maintaining Eurodollar Loans or participating in Letters of Credit (in each case hereunder) increasing by an amount which such Lender reasonably deems material or the amounts received or receivable by such Lender hereunder with respect to the foregoing shall be reduced; or

(iii) at any time after the Effective Date that the making or continuance of any Eurodollar Loan has become unlawful by compliance by such Lender in good faith with any Applicable Law, (or would conflict with any such Applicable Law not having the force of

law even though the failure to comply therewith would not be unlawful), or has become impracticable as a result of a contingency occurring after the Effective Date that materially and adversely affects the interbank Eurodollar market;

then, and in any such event, such Lender (or the Required Lenders, in the case of clause (i) above) shall within a reasonable time thereafter give notice (if by telephone, confirmed in writing) to the Borrower and the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, Eurodollar Loans shall no longer be available until such time as the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice by the Required Lenders no longer exist (which notice the Required Lenders agree to give at such time when such circumstances no longer exist), and any Notice of Borrowing or Notice of Conversion or Continuation given by the Borrower with respect to Eurodollar Loans that have not yet been incurred shall be deemed rescinded by the Borrower, (y) in the case of clause (ii) above, the Borrower shall pay to such Lender, promptly (but no later than 10 Business Days) after receipt of written demand therefor, such additional amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its reasonable discretion shall determine) as shall be required to compensate such Lender for such increased costs or reductions in amounts receivable hereunder (it being agreed that a written notice as to the additional amounts owed to such Lender, showing in reasonable detail the basis for the calculation thereof, submitted to the Borrower by such Lender shall, absent clearly demonstrable error, be final and conclusive and binding upon all parties hereto) and (z) in the case of clause (iii) above, the Borrower shall take one of the actions specified in Section 2.10(b) as promptly as possible and, in any event, within the time period required by Applicable Law.

(b) At any time that any Eurodollar Loan is affected by the circumstances described in Section 2.10(a)(ii) or (iii), the Borrower may (and in the case of a Eurodollar Loan affected pursuant to Section 2.10(a)(iii) shall) either (x) if the affected Eurodollar Loan is then being made pursuant to a Borrowing, cancel said Borrowing by giving the Administrative Agent telephonic notice (confirmed promptly in writing) thereof on the same date that the Borrower was notified by a Lender pursuant to Section 2.10(a)(ii) or (iii) or (y) if the affected Eurodollar Loan is then outstanding, upon at least three Business Days' notice to the Administrative Agent, require the affected Lender to convert each such Eurodollar Loan into an ABR Loan, if applicable; provided, that if more than one Lender is affected at any time, then all affected Lenders must be treated in the same manner pursuant to this Section 2.10(b).

(c) If any Change in Law regarding capital adequacy or liquidity requirements, has or would have the effect of reducing the rate of return on such Lender's or Letter of Credit Issuer's or their respective parent's capital or assets as a consequence of such Lender's or Letter of Credit Issuer's commitments or obligations hereunder to a level below that which such Lender or Letter of Credit Issuer or their respective parent could have achieved but for such Change in Law (taking into consideration such Lender's or Letter of Credit Issuer's or their respective parent's policies with respect to capital adequacy and liquidity), then from time to time, promptly (but no later than 10 Business Days) after written demand by such Lender or Letter of Credit Issuer (with a copy to the Administrative Agent), the Borrower shall pay to such Lender or Letter of Credit Issuer such additional amount or amounts as will compensate such Lender or Letter of Credit Issuer or their respective parent for such reduction, it being understood

and agreed, however, that a Lender or Letter of Credit Issuer shall not be entitled to such compensation as a result of such Lender's or Letter of Credit Issuer's compliance with, or pursuant to any request or directive to comply with, any such Applicable Law as in effect on the Effective Date except as a result of a Change in Law. Each Lender or Letter of Credit Issuer, upon determining in good faith that any additional amounts will be payable pursuant to this Section 2.10(c), will give prompt written notice thereof to the Borrower (on its own behalf) which notice shall set forth in reasonable detail the basis of the calculation of such additional amounts, although the failure to give any such notice shall not, subject to Section 2.13, release or diminish any of the Borrower's obligations to pay additional amounts pursuant to this Section 2.10(c) upon receipt of such notice.

(d) This Section 2.10 shall not apply to taxes to the extent duplicative of Section 5.4.

(e) The agreements in this Section 2.10 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

(f) Notwithstanding the foregoing, no Lender or Letter of Credit Issuer shall be entitled to seek compensation under this Section 2.10 based on the occurrence of a Change in Law arising solely from the Dodd-Frank Wall Street Reform and Consumer Protection Act or any requests, rules, guidelines or directives thereunder or issued in connection therewith, unless such Lender or Letter of Credit Issuer is generally seeking compensation from other borrowers in the U.S. leveraged loan market with respect to its similarly affected commitments, loans and/or participations under agreements with such borrowers having provisions similar to this Section 2.10.

2.11 Compensation. If (a) any payment of principal of a Eurodollar Loan is made by the Borrower to or for the account of a Lender other than on the last day of the Interest Period for such Eurodollar Loan as a result of a payment or conversion pursuant to Section 2.5, 2.6, 2.10, 5.1, 5.2 or 13.7, as a result of acceleration of the maturity of the Loans pursuant to Section 11 or for any other reason, (b) any Borrowing of Eurodollar Loans is not made as a result of a withdrawn Notice of Borrowing, (c) any ABR Loan is not converted into a Eurodollar Loan as a result of a withdrawn Notice of Conversion or Continuation, (d) any Eurodollar Loan is not continued as a Eurodollar Loan as a result of a withdrawn Notice of Conversion or Continuation or (e) any prepayment of principal of a Eurodollar Loan is not made as a result of a withdrawn notice of prepayment pursuant to Section 5.1 or 5.2, the Borrower shall, after receipt of a written request by such Lender (which request shall set forth in reasonable detail the basis for requesting such amount and, absent clearly demonstrable error, the amount requested shall be final and conclusive and binding upon all parties hereto), pay to the Administrative Agent for the account of such Lender within 10 Business Days of such request any amounts required to compensate such Lender for any additional losses, costs or expenses that such Lender may reasonably incur as a result of such payment, failure to borrow, failure to convert, failure to continue, failure to prepay, reduction or failure to reduce, including any loss, cost or expense (excluding loss of anticipated profits) actually incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to fund or maintain such Eurodollar Loan.

2.12 Change of Lending Office. Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 2.10(a)(ii), 2.10(a)(iii), 2.10(c), 3.5 or 5.4 with respect to such

Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event; provided, that such designation is made on such terms that such Lender and its lending office suffer no economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of any such Section. Nothing in this Section 2.12 shall affect or postpone any of the obligations of the Borrower or the right of any Lender provided in Section 2.10, 3.5 or 5.4.

2.13 Notice of Certain Costs. Notwithstanding anything in this Agreement to the contrary, to the extent any notice required by Section 2.10, 2.11, 3.5 or 5.4 is given by any Lender more than 180 days after such Lender has knowledge (or should have had knowledge) of the occurrence of the event giving rise to the additional cost, reduction in amounts, loss, tax or other additional amounts described in such Sections, such Lender shall not be entitled to compensation under Section 2.10, 2.11, 3.5 or 5.4, as the case may be, for any such amounts incurred or accruing prior to the giving of such notice to the Borrower; provided that, if the circumstance giving rise to such claim is retroactive, then such 180 day period referred to above shall be extended to include the period of retroactive effect thereof.

2.14 Incremental Facilities.

(a) The Borrower may at any time or from time to time after the Effective Date, by written notice delivered to the Administrative Agent (whereupon the Administrative Agent shall promptly deliver a copy to each of the Lenders), request (i) one or more new term loans which may be the same Class as any outstanding Class of Term Loans (a "Term Loan Increase") and/or one or more new Classes of term loans (collectively, with any Term Loan Increase, the "Incremental Term Loans"), (ii) one or more increases in the amount of the Revolving Credit Commitments of any Class (each such increase, an "Incremental Revolving Credit Commitment Increase") or (iii) one or more additional Classes of revolving credit commitments (the "Additional/Replacement Revolving Credit Commitments"), and together with the Incremental Term Loans and the Incremental Revolving Credit Commitment Increases, the "Incremental Facilities" and the commitments in respect thereof are referred to as the "Incremental Commitments"); provided that:

(i) after giving effect to the effectiveness of any Incremental Agreement referred to below, except as set forth in the proviso to clause (b) below, no Event of Default shall exist and at the time that any such Incremental Term Loan, Incremental Revolving Credit Commitment Increase or Additional/Replacement Revolving Credit Commitment is made or effected (and after giving effect thereto), no Event of Default shall exist; provided that, with respect to any Incremental Agreement the primary purpose of which is to finance a Permitted Acquisition or any other Investment permitted by this Agreement constituting an acquisition of assets constituting a business unit, line of business or division of, or all or substantially all of the Capital Stock of, another Person, this clause (i) may be waived or omitted by Incremental Lenders holding more than 50% of the aggregate Incremental Commitments under such Incremental Agreement (other than with respect to the absence of any Event of Default under Section 11.1 or Section 11.5, which requirement may not be waived by such Incremental Lenders); and



(ii) after giving effect to the incurrence of such Incremental Term Loans or borrowing under such Incremental Revolving Credit Commitment Increase or borrowing under such Additional/Replacement Revolving Credit Commitments (and after giving effect to any Specified Transaction to be consummated in connection therewith), the Borrower and the Restricted Subsidiaries would be in compliance on a Pro Forma Basis with the requirements of Sections 10.9 and 10.10 as of the most recently ended Test Period on or prior to the incurrence of any such Incremental Facilities, calculated on a Pro Forma Basis, in each case as if such Incremental Term Loans, Incremental Revolving Credit Commitment Increase or Additional/Replacement Revolving Credit Commitments, as applicable, had been outstanding (and any related transactions had occurred) on the first day of such Test Period.

(b) Each tranche of Incremental Term Loans, each tranche of Additional/Replacement Revolving Credit Commitments and each Incremental Revolving Credit Commitment Increase shall be in an aggregate principal amount that is not less than \$5,000,000 (provided that such amount may be less than \$5,000,000 if such amount represents all remaining availability under the limit set forth below) (and in minimum increments of \$1,000,000 in excess thereof), and following the Effective Date, the aggregate amount of the Incremental Term Loans, Incremental Revolving Credit Commitment Increases and the Additional/Replacement Revolving Credit Commitments shall not exceed, at the time of incurrence thereof and after giving Pro Forma Effect thereto and the use of the proceeds thereof, of the sum of (A) the greater of \$500,000,000 and an amount equal to 100% of Consolidated EBITDA for the Test Period most recently then-ended for which the Section 9.1 Financials required by Section 9.1(a) or Section 9.1(b) have actually been delivered (minus, the aggregate principal amount of all Permitted Additional Debt incurred under clause (A) of the proviso to Section 10.1(v)(ii) at any time following the Effective Date), plus (B) an aggregate additional amount of Indebtedness, such that, after giving Pro Forma Effect to such incurrence or issuance (and after giving effect to any Specified Transaction to be consummated in connection therewith and assuming that all Incremental Revolving Credit Commitments then outstanding were fully drawn (except to the extent that such Incremental Revolving Credit Commitments refinanced or replaced all or any portion of the Revolving Credit Commitments outstanding on the Effective Date)) the Borrower would be in compliance with a Consolidated Secured Debt to Consolidated EBITDA Ratio as of the Test Period most recently ended on or prior to the incurrence of any such Incremental Facility, calculated on a Pro Forma Basis, as if such incurrence (and transaction) had occurred on the first day of such Test Period, that is no greater than 4.0:1.0 (the amounts under clause (A), the “Free and Clear Incremental Amount” and the amounts under clause (B), the “Incurrence-Based Incremental Amount” and, together with the Free and Clear Incremental Amount, the “Incremental Limit”); provided that (i) Incremental Term Loans may be incurred without regard to the Incremental Limit, without regard to the requirement set forth in the proviso to Section 2.14(a) that the Borrower and the Restricted Subsidiaries be in compliance on a Pro Forma Basis with the requirements of Sections 10.9 and 10.10 as of the most recently ended Test Period, and without regard to whether an Event of Default has occurred and is continuing, to the extent that the Net Cash Proceeds from such Incremental Term Loans are used on the date of incurrence of such Incremental Term Loans to prepay Term Loans in accordance with the procedures set forth in Section 5.2(a)(i) and subject to the payment of premiums set forth in Section 5.1(b), if applicable, (ii) Additional/Replacement Revolving Credit Commitments may be provided without regard to the Incremental Limit, without regard to the requirement set forth in the proviso to Section 2.14(a) that the Borrower and the Restricted Subsidiaries be in compliance on a Pro Forma Basis with the requirements of Sections 10.9 and 10.10 as of the most recently ended Test Period, and

without regard to whether an Event of Default has occurred and is continuing, to the extent that the existing Revolving Credit Commitments shall be permanently reduced in accordance with Section 5.2(e)(ii) by an amount equal to the aggregate amount of Additional/Replacement Revolving Credit Commitments so provided and (iii) the Borrower may elect to use the Incurrence-Based Incremental Amount prior to the Free and Clear Incremental Amount or any combination thereof in accordance with Section 1.2(m) (and, absent such election, shall be deemed to have used the Incurrence-Based Incremental Amount). Without limiting the foregoing, all or any portion of the Free and Clear Incremental Amount incurred concurrently with all or any portion of the Incurrence-Based Incremental Amount shall not count as Indebtedness for the purposes of calculating the applicable ratio pursuant to the Incurrence-Based Incremental Amount in accordance with Section 1.2(m).

(c) (i) The Incremental Term Loans (I) shall rank *pari passu* in right of payment and of security with the Initial Term Loans, (II) shall not mature earlier than the Initial Term Loan Maturity Date, (III) shall not have a shorter Weighted Average Life to Maturity than the Initial Term Loan Facility, (IV) shall have an amortization schedule (subject to clause (III) above), and interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts and prepayment premiums for the Incremental Term Loans as determined by the Borrower and the lenders of the Incremental Term Loans; provided, however, that if the Effective Yield in respect of any Incremental Term Loans that rank *pari passu* in right of payment and security with the Initial Term Loans as of the date of funding thereof and established on or prior to the Initial Term Loan Maturity Date exceeds the Effective Yield in respect of the Initial Term Loans by more than 0.50%, then the Applicable Margin in respect of the Initial Term Loans shall be adjusted so that the Effective Yield in respect of the Initial Term Loans is equal to the Effective Yield of the Incremental Term Loans minus 0.50%; provided, further, to the extent that any change in the Effective Yield of the Initial Term Loans is necessitated by this clause (c)(i) on the basis of an effective interest rate floor in respect of the Incremental Term Loans, the increased Effective Yield in the Initial Term Loans shall (unless otherwise agreed in writing by the Borrower) have such increase in the Effective Yield effected solely by increases in the interest rate floor(s) applicable to the Initial Term Loans and (V) may otherwise have terms and conditions different from those of the Initial Term Loans; provided that (except with respect to matters contemplated by subclauses (II), (III) and (IV) in above) any differences shall be reasonably satisfactory to the Administrative Agent.

(ii) The Incremental Revolving Credit Commitment Increase shall be treated the same as the Revolving Credit Commitments (including with respect to maturity date thereof) and shall be considered to be part of the Revolving Credit Facility.

(iii) The Additional/Replacement Revolving Credit Commitments (i) shall rank *pari passu* in right of payment and of security with the Revolving Credit Loans, (ii) shall not mature earlier than the Revolving Credit Maturity Date and shall require no mandatory commitment reduction prior to the Revolving Credit Maturity Date, (iii) shall have interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, undrawn commitment fees, funding discounts, original issue discounts and prepayment premiums as determined by the Borrower and the lenders of such commitments, (iv) shall contain borrowing, repayment and termination of Commitment procedures as determined by the Borrower and the lenders of such commitments, (v) may include provisions relating to swingline

loans and/or letters of credit, as applicable, issued thereunder, which issuances shall be on terms substantially similar (except for the overall size of such subfacilities, the fees payable in connection therewith and the identity of the swingline lender and letter of credit issuer, as applicable, which shall be determined by the Borrower, the lenders of such commitments and the applicable letter of credit issuers and swingline lenders and borrowing, repayment and termination of commitment procedures with respect thereto, in each case which shall be specified in the applicable Incremental Agreement) to the terms relating to Swingline Loans and Letters of Credit with respect to the Revolving Credit Commitments or otherwise reasonably acceptable to the Administrative Agent and (vi) may otherwise have terms and conditions different from those of the Revolving Credit Facility; provided that (except with respect to matters contemplated by clauses (ii), (iii), (iv) and (v) above) any differences shall be reasonably satisfactory to the Administrative Agent.

(d) Each notice from the Borrower pursuant to this Section 2.14 shall be given in writing and shall set forth the requested amount and proposed terms of the relevant Incremental Term Loans, Incremental Revolving Credit Commitment Increases or Additional/Replacement Revolving Credit Commitments. Incremental Term Loans may be made, and Incremental Revolving Credit Commitment Increases and Additional/Replacement Revolving Credit Commitments may be provided, subject to the prior written consent of the Borrower (not to be unreasonably withheld), by any existing Lender (it being understood that no existing Lender will have an obligation to make a portion of any Incremental Term Loan, no existing Lender with a Revolving Credit Commitment will have any obligation to provide a portion of any Incremental Revolving Credit Commitment Increase and no existing Lender with an Revolving Credit Commitment will have an obligation to provide a portion of any Additional/Replacement Revolving Credit Commitment) or by any other bank, financial institution, other institutional lender or other investor (any such other bank, financial institution or other investor being called an “Additional Lender”); provided that (i) the Administrative Agent shall have consented (not to be unreasonably withheld) to such Lender’s or Additional Lender’s making such Incremental Term Loans or providing such Incremental Revolving Credit Commitment Increases or such Additional/Replacement Revolving Credit Commitments if such consent would be required under Section 13.6(b) for an assignment of Loans or Commitments, as applicable, to such Lender or Additional Lender; provided further that, solely with respect to any Incremental Revolving Credit Commitment Increases or Additional/Replacement Revolving Credit Commitments, each Swingline Lender and each Letter of Credit Issuer shall have consented (not to be unreasonably withheld) to such Additional Lender’s providing such Incremental Revolving Credit Commitment Increases or Additional/Replacement Revolving Credit Commitments if such consent would be required under Section 13.6(b) for an assignment of Loans or Commitments, as applicable, to such Lender or Additional Lender.

(e) Commitments in respect of Incremental Term Loans, Incremental Revolving Credit Commitment Increases and Additional/Replacement Revolving Credit Commitments shall become Commitments (or in the case of an Incremental Revolving Credit Commitment Increase to be provided by an existing Lender with a Revolving Credit Commitment, an increase in such Lender’s applicable Revolving Credit Commitment) under this Agreement pursuant to an amendment (an “Incremental Agreement”) to this Agreement and, as appropriate, the other Credit Documents, executed by Holdings, the Borrower, each Lender agreeing to provide such Commitment, if any, each Additional Lender, if any, and the

Administrative Agent. The Incremental Agreement may, subject to Section 2.14(c), without the consent of any other Lenders, effect such amendments to this Agreement and the other Credit Documents as may be necessary, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section. The effectiveness of any Incremental Agreement shall be subject to the satisfaction on the date thereof (each, an “Incremental Facility Closing Date”), and the occurrence of any Credit Events pursuant to such Incremental Agreement, shall be subject to the satisfaction of such conditions as the parties thereto shall agree. The Borrower will use the proceeds of the Incremental Term Loans, Incremental Revolving Credit Commitment Increases and Additional/Replacement Revolving Credit Commitments for any purpose not prohibited by this Agreement; provided that the proceeds of any Incremental Term Loans incurred, and any Additional/Replacement Revolving Credit Commitments provided, in either case as described in the proviso to Section 2.14(b), shall be used in accordance with the terms thereof.

(f) (i) No Lender shall be obligated to provide any Incremental Term Loans, Incremental Revolving Credit Commitment Increases or Additional/Replacement Revolving Credit Commitments unless it so agrees and the Borrower shall not be obligated to offer any existing Lender the opportunity to provide any Incremental Term Loans, Incremental Revolving Credit Commitment Increases or Additional/Replacement Revolving Credit Commitments.

(ii) Upon each increase in the Revolving Credit Commitments pursuant to this Section, each Lender with a Revolving Credit Commitment of such Class immediately prior to such increase will automatically and without further act be deemed to have assigned to each Lender providing a portion of the Incremental Revolving Credit Commitment Increase (each, an “Incremental Revolving Credit Commitment Increase Lender”) in respect of such increase, and each such Incremental Revolving Credit Commitment Increase Lender will automatically and without further act be deemed to have assumed, a portion of such Lender’s participations hereunder in outstanding Letters of Credit and Swingline Loans such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding (A) participations hereunder in Letters of Credit and (B) participations hereunder in Swingline Loans held by each Lender with a Revolving Credit Commitment (including each such Incremental Revolving Credit Commitment Increase Lender) will equal the percentage of the aggregate Revolving Credit Commitments of all Lenders represented by such Lender’s Revolving Credit Commitment. If, on the date of such increase, there are any Revolving Credit Loans outstanding, such Revolving Credit Loans shall on or prior to the effectiveness of such Incremental Revolving Credit Commitment Increase be prepaid from the proceeds of additional Revolving Credit Loans made hereunder (reflecting such increase in Revolving Credit Commitments), which prepayment shall be accompanied by accrued interest on the Revolving Credit Loans being prepaid and any costs incurred by any Lender in accordance with Section 2.11. The Administrative Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

(g) This Section 2.14 shall supersede any provisions in Section 2.7 or 13.1 to the contrary. For the avoidance of doubt, any provisions of this Section 2.14 may be amended with the consent of the Required Lenders, provided no such amendment shall require any Lender to provide any Incremental Commitment without such Lender’s consent.

2.15 Extensions of Term Loans, Revolving Credit Loans and Revolving Credit Commitments and Additional/Replacement Revolving Credit Loans and Additional/Replacement Revolving Credit Commitments.

(a) (i) The Borrower may at any time and from time to time request that all or a portion of each Term Loan of any Class (an “Existing Term Loan Class”) be exchanged to extend the scheduled final maturity date(s) of any payment of principal with respect to all or a portion of any principal amount of such Term Loans (any such Term Loans which have been so extended, “Extended Term Loans”) and to provide for other terms consistent with this Section 2.15. Prior to entering into any Extension Agreement with respect to any Extended Term Loans, the Borrower shall provide written notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders of the applicable Existing Term Loan Class, with such request offered to all such Lenders of such Existing Term Loan Class) (a “Term Loan Extension Request”) setting forth the proposed terms of the Extended Term Loans to be established, which terms shall be substantially similar to the Term Loans of the Existing Term Loan Class from which they are to be extended except that (w) the scheduled final maturity date shall be extended and all or any of the scheduled amortization payments of all or a portion of any principal amount of such Extended Term Loans may be delayed to later dates than the scheduled amortization of principal of the Term Loans of such Existing Term Loan Class (with any such delay resulting in a corresponding adjustment to the scheduled amortization payments reflected in Section 2.5 or in the Extension Agreement or Incremental Agreement, as the case may be, with respect to the Existing Term Loan Class of Term Loans from which such Extended Term Loans were extended, in each case as more particularly set forth in Section 2.15(c) below), (x) (A) the interest rates (including through fixed interest rates), interest margins, rate floors, upfront fees, funding discounts, original issue discounts and premiums with respect to the Extended Term Loans may be different than those for the Term Loans of such Existing Term Loan Class and/or (B) additional fees and/or premiums may be payable to the Lenders providing such Extended Term Loans in addition to any of the items contemplated by the preceding clause (A), in each case, to the extent provided in the applicable Extension Agreement, (y) subject to the provisions set forth in Sections 5.1 and 5.2, the Extended Term Loans may have optional prepayment terms (including call protection and prepayment premiums) and mandatory prepayment terms as may be agreed between the Borrower and the Lenders thereof and (z) the Extension Agreement may provide for other covenants and terms that apply to any period after the Latest Maturity Date. No Lender shall have any obligation to agree to have any of its Term Loans of any Existing Term Loan Class exchanged into Extended Term Loans pursuant to any Term Loan Extension Request. Any Extended Term Loans of any Extension Series shall constitute a separate Class of Term Loans from the Existing Term Loan Class of Term Loans from which they were extended.

(ii) The Borrower may at any time and from time to time request that all or a portion of the Revolving Credit Commitments of any Class, the Extended Revolving Credit Commitments of any Class and/or any Additional/Replacement Revolving Credit Commitments of any Class, existing at the time of such request (each, an “Existing Revolving Credit Commitment”) and any related revolving credit loans under any such facility, “Existing Revolving Credit Loans”; each Existing Revolving Credit Commitment and related Existing Revolving Credit Loans together being referred to as an “Existing Revolving Credit Class”) be

exchanged to extend the termination date thereof and the scheduled maturity date(s) of any payment of principal with respect to all or a portion of any principal amount of Existing Revolving Credit Loans related to such Existing Revolving Credit Commitments (any such Existing Revolving Credit Commitments which have been so extended, "Extended Revolving Credit Commitments") and any related revolving credit loans, "Extended Revolving Credit Loans") and to provide for other terms consistent with this Section 2.15. Prior to entering into any Extension Agreement with respect to any Extended Revolving Credit Commitments, the Borrower shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders of the applicable Class of Existing Revolving Credit Commitments, with such request offered to all Lenders of such Class) (a "Revolving Credit Extension Request") setting forth the proposed terms of the Extended Revolving Credit Commitments to be established thereunder, which terms shall be substantially similar to those applicable to the Existing Revolving Credit Commitments from which they are to be extended (the "Specified Existing Revolving Credit Commitment Class") except that (w) all or any of the final maturity dates of such Extended Revolving Credit Commitments may be delayed to later dates than the final maturity dates of the Existing Revolving Credit Commitments of the Specified Existing Revolving Credit Commitment Class, (x) (A) the interest rates, interest margins, rate floors, upfront fees, funding discounts, original issue discounts and prepayment premiums with respect to the Extended Revolving Credit Commitments may be different than those for the Existing Revolving Credit Commitments of the Specified Existing Revolving Credit Commitment Class and/or (B) additional fees and/or premiums may be payable to the Lenders providing such Extended Revolving Credit Commitments in addition to or in lieu of any of the items contemplated by the preceding clause (A), (y)(1) the undrawn revolving credit commitment fee rate with respect to the Extended Revolving Credit Commitments may be different than those for the Specified Existing Revolving Credit Commitment Class and (2) the Extension Agreement may provide for other covenants and terms that apply to any period after the Latest Maturity Date; provided that, notwithstanding anything to the contrary in this Section 2.15 or otherwise, (1) the borrowing and repayment (other than in connection with a permanent repayment and termination of commitments) of the Extended Revolving Credit Loans under any Extended Revolving Credit Commitments shall not be required to be made on a pro rata basis with any borrowings and repayments of the Existing Revolving Credit Loans of the Specified Existing Revolving Credit Commitment Class (the mechanics for which may be implemented through the applicable Extension Agreement and may include technical changes related to the borrowing and repayment procedures of the Specified Existing Revolving Credit Commitment Class), (2) assignments and participations of Extended Revolving Credit Commitments and Extended Revolving Credit Loans shall be governed by the assignment and participation provisions set forth in Section 13.6 and (3) subject to the applicable limitations set forth in Section 4.2 and Section 5.2(e)(ii), permanent repayments of Extended Revolving Credit Loans (and corresponding permanent reduction in the related Extended Revolving Credit Commitments) shall be permitted as may be agreed between the Borrower and the Lenders thereof. No Lender shall have any obligation to agree to have any of its Revolving Credit Loans or Revolving Credit Commitments of any Existing Revolving Credit Class exchanged into Extended Revolving Credit Loans or Extended Revolving Credit Commitments pursuant to any Extension Request. Any Extended Revolving Credit Commitments of any Extension Series shall constitute a separate Class of revolving credit commitments from Existing Revolving Credit Commitments of the Specified Existing Revolving Credit Commitment Class and from any other Existing Revolving Credit Commitments (together with any other Extended Revolving Credit Commitments so established on such date).

(b) The Borrower shall provide the applicable Extension Request to the Administrative Agent (for further delivery to the Lenders) not later than 30 days prior to the maturity date or termination date, as the case may be, of the applicable Term Loan, Revolving Credit Loan, Revolving Credit Commitment, Additional/Replacement Revolving Credit Loan or Additional/Replacement Revolving Credit Commitment, and shall provide each applicable Lender in such Extension Request a period of least five Business Days (or such shorter period as the Administrative Agent may determine in its reasonable discretion) prior to the date on which Lenders under the Existing Class are requested to respond, and shall agree to such procedures, if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably, to accomplish the purpose of this Section 2.15. Any Lender (an “Extending Lender”) wishing to have all or a portion of its Term Loans, Revolving Credit Commitments or Additional/Replacement Revolving Credit Commitments (or any earlier Extended Revolving Credit Commitments) of an Existing Class subject to such Extension Request exchanged into Extended Loans/Commitments shall notify the Administrative Agent (an “Extension Election”) on or prior to the date specified in such Extension Request of the amount of its Term Loans, Revolving Credit Commitments and/or Additional/Replacement Revolving Credit Commitments (and/or any earlier extended Extended Revolving Credit Commitments) which it has elected to convert into Extended Loans/Commitments (subject to any minimum denomination requirements imposed by the Administrative Agent). In the event that the aggregate amount of Term Loans, Revolving Credit Commitments, Additional/Replacement Revolving Credit Commitments or earlier extended Extended Revolving Credit Commitments, as applicable, subject to Extension Elections exceeds the amount of Extended Loans/Commitments requested pursuant to the Extension Request, such Term Loans, Revolving Credit Commitments, Additional/Replacement Revolving Credit Commitments or earlier extended Extended Revolving Credit Commitments subject to Extension Elections shall be exchanged to Extended Loans/Commitments on a pro rata basis (subject to such rounding requirements as may be established by the Administrative Agent) based on the principal amount of Term Loans, Revolving Credit Commitments, Additional/Replacement Revolving Credit Commitments or earlier extended Extended Revolving Credit Commitments included in such Extension Election or as may be otherwise agreed to in the applicable Extension Agreement.

(c) Extended Loans/Commitments shall be established pursuant to an amendment (an “Extension Agreement”) to this Agreement (which, except to the extent expressly contemplated by the penultimate sentence of this Section 2.15(c) and notwithstanding anything to the contrary set forth in Section 13.1, shall not require the consent of any Lender other than the Extending Lenders with respect to the Extended Loans/Commitments established thereby) executed by the Credit Parties, the Administrative Agent and the Extending Lenders. In addition to any terms and changes required or permitted by Section 2.15(a), each Extension Agreement in respect of Extended Term Loans shall amend the scheduled amortization payments pursuant to Section 2.5 or the applicable Incremental Agreement or Extension Agreement with respect to the Existing Class of Term Loans from which the Extended Term Loans were exchanged to reduce each scheduled Repayment Amount for the Existing Class in the same proportion as the amount of Term Loans of the Existing Class is to be reduced pursuant to such Extension Agreement (it being understood that the amount of any Repayment Amount payable with respect to any

individual Term Loan of such Existing Class that is not an Extended Term Loan shall not be reduced as a result thereof). In connection with any Extension Agreement, the Borrower shall deliver an opinion of counsel reasonably acceptable to the Administrative Agent (i) as to the enforceability of such Extension Agreement, this Agreement as amended thereby, and such of the other Credit Documents (if any) as may be amended thereby (in the case of such other Credit Documents as contemplated by the immediately preceding sentence) and covering other customary matters and (ii) to the effect that such Extension Agreement, including the Extended Loans/Commitments provided for therein, does not conflict with or violate the terms and provisions of Section 13.1 of this Agreement.

(d) Notwithstanding anything to the contrary contained in this Agreement, (A) on any date on which any Existing Term Loan Class or Class of Existing Revolving Credit Commitments is exchanged to extend the related scheduled maturity date(s) in accordance with paragraph (a) above (an “Extension Date”), (I) in the case of the existing Term Loans of each Extending Lender, the aggregate principal amount of such existing Term Loans shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Term Loans so exchanged by such Lender on such date, and the Extended Term Loans shall be established as a separate Class of Term Loans (together with any other Extended Term Loans so established on such date), and (II) in the case of the Existing Revolving Credit Commitments of each Extending Lender under any Specified Existing Revolving Credit Commitment Class, the aggregate principal amount of such Existing Revolving Credit Commitments shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Revolving Credit Commitments so exchanged by such Lender on such date (or by any greater amount as may be agreed by the Borrower and such Lender), and such Extended Revolving Credit Commitments shall be established as a separate Class of revolving credit commitments from the Specified Existing Revolving Credit Commitment Class and from any other Existing Revolving Credit Commitments (together with any other Extended Revolving Credit Commitments so established on such date) and (B) if, on any Extension Date, any Existing Revolving Credit Loans of any Extending Lender are outstanding under the Specified Existing Revolving Credit Commitment Class, such Existing Revolving Credit Loans (and any related participations) shall be deemed to be exchanged to Extended Revolving Credit Loans (and related participations) of the applicable Class in the same proportion as such Extending Lender’s Specified Existing Revolving Credit Commitments to Extended Revolving Credit Commitments of such Class.

(e) In the event that the Administrative Agent determines in its sole discretion that the allocation of Extended Term Loans of a given Extension Series or the Extended Revolving Credit Commitments of a given Extension Series, in each case to a given Lender was incorrectly determined as a result of manifest administrative error in the receipt and processing of an Extension Election timely submitted by such Lender in accordance with the procedures set forth in the applicable Extension Agreement, then the Administrative Agent, the Borrower and such affected Lender may (and hereby are authorized to), in their sole discretion and without the consent of any other Lender, enter into an amendment to this Agreement and the other Credit Documents (each, a “Corrective Extension Amendment”) within 15 days following the effective date of such Extension Agreement, as the case may be, which Corrective Extension Amendment shall (i) provide for the exchange and extension of Term Loans under the Existing Term Loan Class or Existing Revolving Credit Commitments (and related revolving credit exposure), as the case may be, in such amount as is required to cause such Lender to hold Extended Term Loans



or Extended Revolving Credit Commitments (and related revolving credit exposure) of the applicable Extension Series into which such other Term Loans or Commitments were initially exchanged, as the case may be, in the amount such Lender would have held had such administrative error not occurred and had such Lender received the minimum allocation of the applicable Loans or Commitments to which it was entitled under the terms of such Extension Agreement, in the absence of such error, (ii) be subject to the satisfaction of such conditions as the Administrative Agent, the Borrower and such Lender may agree (including conditions of the type required to be satisfied for the effectiveness of an Extension Agreement described in Section 2.15(c)), and (iii) effect such other amendments of the type (with appropriate reference and nomenclature changes) described in the penultimate sentence of Section 2.15(c).

(f) No exchange of Loans or Commitments pursuant to any Extension Agreement in accordance with this Section 2.15 shall constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

(g) This Section 2.15 shall supersede any provisions in Section 2.4 or Section 13.1 to the contrary. For the avoidance of doubt, any of the provisions of this Section 2.15 may be amended with the consent of the Required Lenders; provided that no such amendment shall require any Lender to provide any Extended Loans/Commitments without such Lender's consent.

2.16 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender pursuant to Section 4.1(a);

(b) the Commitment of and the Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether all Lenders or the Required Lenders or any other requisite Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 13.1); provided that (i) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender which affects such Defaulting Lender differently than other affected Lenders shall require the consent of such Defaulting Lender and (ii) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender;

(c) if any Swingline Exposure or Letter of Credit Exposure exists at the time a Lender becomes a Defaulting Lender, then (i) all or any part of such Letter of Credit Exposure of such Defaulting Lender and such Swingline Exposure of such Defaulting Lender will, subject to the limitation in the first proviso below, automatically be reallocated (effective on the day such Lender becomes a Defaulting Lender) among the Non-Defaulting Lenders pro rata in accordance with their respective Revolving Credit Commitment Percentages; provided that (A) each Non-Defaulting Lender's Revolving Credit Exposure may not in any event exceed the Revolving Credit Commitment of such Non-Defaulting Lender as in effect at the time of such reallocation and (B) neither such reallocation nor any payment by a Non-Defaulting Lender pursuant thereto will constitute a waiver or release of any claim the Borrower, the Administrative Agent, any

Letter of Credit Issuer, any Swingline Lender or any other Lender may have against such Defaulting Lender or cause such Defaulting Lender to be a Non-Defaulting Lender, (ii) to the extent that all or any portion (the “unreallocated portion”) of the Defaulting Lender’s Letter of Credit Exposure and Swingline Exposure cannot, or can only partially, be so reallocated to Non-Defaulting Lenders, whether by reason of the first proviso in Section 2.16(c)(i) above or otherwise, the Borrower shall within one Business Day following notice by the Administrative Agent (x) first, prepay such Swingline Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) and (y) second, Cash Collateralize such Defaulting Lender’s Letter of Credit Exposure (after giving effect to any partial reallocation pursuant to clause (i) above), in accordance with the procedures set forth in Section 3.8 for so long as such Letter of Credit Exposure is outstanding, (iii) if the Borrower Cash Collateralizes any portion of such Defaulting Lender’s Letter of Credit Exposure pursuant to the requirements of this Section 2.16(c), the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 4.1(c) with respect to such Defaulting Lender’s Letter of Credit Exposure during the period such Defaulting Lender’s Letter of Credit Exposure is Cash Collateralized, (iv) if the Letter of Credit Exposure of the Non-Defaulting Lenders is reallocated pursuant to the requirements of this Section 2.16(c), then the fees payable to the Lenders pursuant to Section 4.1(c) shall be adjusted in accordance with such Non-Defaulting Lenders’ Revolving Credit Commitment Percentages and the Borrower shall not be required to pay any fees to the Defaulting Lender pursuant to Section 4.1(c) with respect to such Defaulting Lender’s Letter of Credit Exposure during the period that such Defaulting Lender’s Letter of Credit Exposure is reallocated, or (v) if any Defaulting Lender’s Letter of Credit Exposure is neither Cash Collateralized nor reallocated pursuant to the requirements of this Section 2.16(c), then, without prejudice to any rights or remedies of any Letter of Credit Issuer or any Lender hereunder, all fees payable under Section 4.1(c) with respect to such Defaulting Lender’s Letter of Credit Exposure shall be payable to the Letter of Credit Issuers until such Letter of Credit Exposure is Cash Collateralized and/or reallocated;

(d) (i) No Letter of Credit Issuer will be required to issue any new Letter of Credit or amend any outstanding Letter of Credit to increase the face amount thereof, alter the drawing terms thereunder or extend the expiry date thereof, unless such Letter of Credit Issuer is reasonably satisfied that any exposure that would result from the exposure to such Defaulting Lender is eliminated or fully covered by the Revolving Credit Commitments of the Non-Defaulting Lenders or by Cash Collateralization or a combination thereof in accordance with the requirements of this Section 2.16 or otherwise in a manner reasonably satisfactory to such Letter of Credit Issuer; and

(ii) No Swingline Lender will be required to fund any Swingline Loans unless such Swingline Lender is reasonably satisfied that any exposure that would result from the exposure to such Defaulting Lender is eliminated or fully covered by the Revolving Credit Commitments of the Non-Defaulting Lenders or a combination thereof in accordance with the requirements of Section 2.16(c) above.

(e) If the Borrower, the Administrative Agent, the Swingline Lenders and the Letter of Credit Issuers agree in writing in their discretion that a Lender that is a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon, as of the effective date specified in such notice and subject to any conditions set forth therein, such Lender will, to the extent applicable, purchase at par that

portion of outstanding Revolving Credit Loans of the other Revolving Credit Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause such outstanding Revolving Credit Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held on a pro rata basis by the Revolving Credit Lenders (including such Lender) in accordance with their applicable percentages, whereupon such Lender will cease to be a Defaulting Lender and will be a Non-Defaulting Lender and any applicable Cash Collateral shall be promptly returned to the Borrower and any Letter of Credit Exposure and Swingline Exposure of such Lender reallocated pursuant to the requirements of Section 2.16(c) shall be reallocated back to such Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; provided that, except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender;

(f) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 11 or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 13.8), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, in the case of a Revolving Credit Lender, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to each Letter of Credit Issuer and each Swingline Lender hereunder; third, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fourth, if so determined by the Administrative Agent and the Borrower, to be held in a non-interest bearing deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize, in accordance with Section 3.8, any Letter of Credit Issuer's future fronting exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, fifth, to the payment of any amounts owing to the Lenders, the Letter of Credit Issuers or the Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender, such Letter of Credit Issuer or such Swingline Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; sixth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and seventh, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if such payment is a payment of the principal amount of any Loans or Unpaid Drawings, such payment shall be applied solely to pay the relevant Loans of, and Unpaid Drawings owed to, the relevant non-Defaulting Lenders on a pro rata basis prior to being applied in the manner set forth in this Section 2.16(f). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to Section 3.8 shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

SECTION 3. Letters of Credit

3.1 Issuance of Letters of Credit. (a) Subject to and upon the terms and conditions herein set forth, at any time and from time to time on and after the Effective Date and prior to the Letter of Credit Maturity Date, each Letter of Credit Issuer agrees to issue (or cause its respective Affiliates or other financial institution with which such Letter of Credit Issuer shall have entered into an agreement regarding the issuance of letters of credit hereunder, to issue on its behalf), upon the request of and for the account of the Borrower or any Restricted Subsidiary, letters of credit (each, a "Letter of Credit") in such form as may be approved by such Letter of Credit Issuer in its reasonable discretion; provided that the Borrower shall be a co-applicant, and be jointly and severally liable, with respect to each Letter of Credit issued for the account of a Restricted Subsidiary.

(b) Notwithstanding the foregoing, (i) no Letter of Credit shall be issued the Stated Amount of which, when added to the Letter of Credit Obligations at such time, would exceed the Total Letter of Credit Commitment then in effect, (ii) no Letter of Credit shall be issued the Stated Amount of which, when added to the Letter of Credit Obligations and the Revolving Credit Loans and Swingline Loans outstanding at such time, would exceed the Total Revolving Credit Commitment then in effect, (iii) each Letter of Credit shall have an expiration date occurring no later than the earlier of (x) one year after the date of issuance thereof, unless otherwise agreed upon by the Administrative Agent and the applicable Letter of Credit Issuer or as provided under Section 3.2(e), and (y) the Letter of Credit Maturity Date, (iv) each Letter of Credit shall be denominated in Dollars, (v) no Letter of Credit shall be issued if it would be illegal under any Applicable Law for the beneficiary of the Letter of Credit to have a Letter of Credit issued in its favor, and (vi) no Letter of Credit shall be issued after any Letter of Credit Issuer has received a written notice from the Borrower, the Administrative Agent or the Required Lenders stating that a Default or an Event of Default has occurred and is continuing until such time as such Letter of Credit Issuer shall have received a written notice of (x) rescission of such notice from the party or parties originally delivering such notice or (y) the waiver of such Default or Event of Default in accordance with the provisions of Section 13.1 or that such Default or Event of Default is no longer continuing.

(c) No Letter of Credit Issuer shall be under any obligation to issue any Letter of Credit if:

(i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Letter of Credit Issuer from issuing the Letter of Credit, or any requirement of law applicable to the Letter of Credit Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Letter of Credit Issuer shall prohibit, or request that such Letter of Credit Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon such Letter of Credit Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which such Letter of Credit Issuer is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon such Letter of Credit Issuer any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which such Letter of Credit Issuer in good faith deems material to it;

(ii) the issuance of such Letter of Credit would violate one or more policies of such Letter of Credit Issuer applicable to Letters of Credit generally;

(iii) except as otherwise agreed by the Administrative Agent and such Letter of Credit Issuer, the Letter of Credit is in an initial Stated Amount less than \$100,000;

(iv) the Letter of Credit is to be denominated in a currency other than Dollars; or

(v) the Stated Amount of such Letter of Credit, when added to the Letter of Credit Obligations applicable to such Letter of Credit Issuer, would exceed the Letter of Credit Commitment of such Letter of Credit Issuer.

(d) In connection with the establishment of any Extended Revolving Credit Commitments or Additional/Replacement Revolving Credit Commitments and subject to the availability of unused Commitments with respect to such newly established Class and the satisfaction of the Conditions set forth in Section 7, the Borrower may, with the written consent of the applicable Letter of Credit Issuer, designate any outstanding Letter of Credit to be a Letter of Credit issued pursuant to such Class of Extended Revolving Credit Commitments or Additional/Replacement Revolving Credit Commitments, as applicable. Upon such designation such Letter of Credit shall no longer be deemed to be issued and outstanding under such prior Class and shall instead be deemed to be issued and outstanding under such newly established Class of Extended Revolving Credit Commitments or Additional/Replacement Revolving Credit Commitments, as applicable.

3.2 Letter of Credit Requests. (a) Whenever the Borrower desires that a Letter of Credit be issued (or amended, renewed or extended), it shall give the Administrative Agent and the Letter of Credit Issuer a Letter of Credit Request by no later than 1:00 p.m. (New York City time) at least two (or such lesser number as may be agreed upon by the Administrative Agent and such Letter of Credit Issuer) Business Days prior to the proposed date of issuance, amendment, renewal or extension for any Letter of Credit. The Administrative Agent shall promptly transmit copies of each Letter of Credit Request to each Lender.

(b) In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Request shall specify: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the Stated Amount thereof in the relevant currency; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder and (G) such other matters as such Letter of Credit Issuer may reasonably require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Request shall specify: (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such Letter of Credit Issuer may reasonably require. Each notice shall be executed by the Borrower and shall be in the form of Exhibit E (each, a "Letter of Credit Request").

(c) Promptly after receipt of any Letter of Credit Request, such Letter of Credit Issuer will confirm with the Administrative Agent in writing that the Administrative Agent has received a copy of such Letter of Credit Request from the applicable Borrower and, if not, such Letter of Credit Issuer will provide the Administrative Agent with a copy thereof. Unless the Letter of Credit Issuer has received written notice from any Revolving Credit Lender, the Administrative Agent or any Credit Party, at least two Business Days prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Sections 6 and 7 shall not then be satisfied, then, subject to the terms and conditions hereof, such Letter of Credit Issuer shall, on the requested date, issue a Letter of Credit for the account of the applicable Borrower (or the applicable Restricted Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with the terms hereof.

(d) The making of each Letter of Credit Request shall be deemed to be a representation and warranty by the Borrower that the Letter of Credit may be issued in accordance with, and will not violate the requirements of, Section 3.1(b).

(e) If the Borrower so requests in any applicable Letter of Credit Request, such Letter of Credit Issuer may agree to issue a Letter of Credit that has automatic extension provisions (each, an “Auto-Extension Letter of Credit”); provided that any such Auto-Extension Letter of Credit must permit such Letter of Credit Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the “Non-Extension Notice Date”) in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the Letter of Credit Issuer, the Borrower shall not be required to make a specific request to such Letter of Credit Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) such Letter of Credit Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Maturity Date; provided, however, that the Letter of Credit Issuer shall not permit any such extension if (A) the Letter of Credit Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of Section 3.1(b) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is two Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Revolving Class Lenders have elected not to permit such extension or (2) from the Administrative Agent, the Required Revolving Class Lenders or the Borrower that one or more of the applicable conditions specified in Section 7 are not then satisfied, and in each such case directing the Letter of Credit Issuer not to permit such extension.

(f) Promptly after its delivery of any Letter of Credit or any amendment, renewal or extension to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the Letter of Credit Issuer will also deliver to the Borrower a true and complete copy of such Letter of Credit or amendment, renewal or extension. On the last Business Day of each March, June, September and December, each Letter of Credit Issuer shall provide the Administrative Agent a list of all Letters of Credit issued by it that are outstanding at such time.

3.3 Letter of Credit Participations. (a) Immediately upon the issuance by the Letter of Credit Issuer of any Letter of Credit, the Letter of Credit Issuer shall be deemed to have sold and transferred to each other Revolving Credit Lender (each such Revolving Credit Lender, in its capacity under this Section 3.3(a), a "Letter of Credit Participant"), and each such Letter of Credit Participant shall be deemed irrevocably and unconditionally to have purchased and received from the Letter of Credit Issuer, without recourse or warranty, an undivided interest and participation (each, a "Letter of Credit Participation"), to the extent of such Letter of Credit Participant's Revolving Credit Commitment Percentage, in such Letter of Credit, each substitute letter of credit, each drawing made thereunder and the obligations of the Borrower under this Agreement with respect thereto, and any security therefor or guaranty pertaining thereto (although Letter of Credit Fees will be paid directly to the Administrative Agent for the ratable account of the Letter of Credit Participants as provided in Section 4.1(c) and the Letter of Credit Participants shall have no right to receive any portion of any fees paid to the Administrative Agent for the account of any Letter of Credit Issuers in respect of each Letter of Credit issued hereunder).

(b) In determining whether to pay under any Letter of Credit, the Letter of Credit Issuer shall have no obligation relative to the Letter of Credit Participants other than to confirm that any documents required to be delivered under such Letter of Credit have been delivered and that they appear to comply on their face with the requirements of such Letter of Credit. Any action taken or omitted to be taken by the Letter of Credit Issuer under or in connection with any Letter of Credit issued by it, if taken or omitted in the absence of gross negligence or willful misconduct, shall not create for the Letter of Credit Issuer any resulting liability.

(c) Whenever the Letter of Credit Issuer receives a payment in respect of an unpaid reimbursement obligation as to which the Administrative Agent has received for the account of the Letter of Credit Issuer any payments from the Letter of Credit Participants, the Letter of Credit Issuer shall pay to the Administrative Agent and the Administrative Agent shall promptly pay to each Letter of Credit Participant that has paid its Revolving Credit Commitment Percentage of such reimbursement obligation, in Dollars and in immediately available funds, an amount equal to such Letter of Credit Participant's share (based upon the proportionate aggregate amount originally funded or deposited by such Letter of Credit Participant to the aggregate amount funded or deposited by all Letter of Credit Participants) of the principal amount of such reimbursement obligation and interest thereon accruing after the purchase of the respective Letter of Credit Participations.

(d) The obligations of the Letter of Credit Participants to purchase Letter of Credit Participations from the Letter of Credit Issuer and make payments to the Administrative Agent for the account of the Letter of Credit Issuer with respect to Letters of Credit shall be irrevocable and not subject to counterclaim, set-off or other defense or any other qualification or exception whatsoever and shall be made in accordance with the terms and conditions of this Agreement under all circumstances, including under any of the following circumstances:

- (i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Credit Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the Letter of Credit Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(v) any payment made by the Letter of Credit Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vi) any payment by the Letter of Credit Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the Letter of Credit Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(vii) the surrender or impairment of any security for the performance or observance of any of the terms of any of the Credit Documents; or

(viii) the occurrence of any Default or Event of Default;

provided that no Letter of Credit Participant shall be obligated to pay to the Administrative Agent for the account of the Letter of Credit Issuer its Revolving Credit Commitment Percentage of any unreimbursed amount arising from any wrongful payment made by the Letter of Credit Issuer under a Letter of Credit as a result of acts or omissions constituting willful misconduct or gross negligence on the part of the Letter of Credit Issuer as determined in the final, non-appealable judgment of a court of competent jurisdiction.

3.4 Agreement to Repay Letter of Credit Drawings. (a) Upon receipt from any beneficiary of any Letter of Credit of any notice of drawing under such Letter of Credit, the Letter of Credit Issuer shall notify the Borrower and the Administrative Agent thereof. The Borrower hereby agrees to reimburse the Letter of Credit Issuer with respect to any such drawing, by making payment, whether with its own internal funds, with proceeds of Revolving Credit Loans, or any other source, to the Administrative Agent for the account of the Letter of Credit Issuer in immediately available funds, for any payment or disbursement made by



the Letter of Credit Issuer under any Letter of Credit issued by it (each such amount so paid until reimbursed, an “Unpaid Drawing”) (i) within one Business Day of the date of such payment or disbursement, if the Letter of Credit Issuer provides notice to the Borrower of such payment or disbursement prior to 10:00 a.m. (New York City time) on such next succeeding Business Day after the date of such payment or disbursement or (ii) if such notice is received after such time, on the Business Day following the date of receipt of such notice (such required date for reimbursement under clause (i) or (ii), as applicable, the “Required Reimbursement Date”), with interest on the amount so paid or disbursed by such Letter of Credit Issuer, from and including the date of such payment or disbursement to but excluding the Required Reimbursement Date, at the per annum rate for each day equal to the rate described in Section 2.8(a); provided, that, notwithstanding anything contained in this Agreement to the contrary, with respect to any Letter of Credit, (i) unless the Borrower shall have notified the Administrative Agent and the Letter of Credit Issuer prior to 10:00 a.m. (New York City time) on the Required Reimbursement Date that the Borrower intends to reimburse the Letter of Credit Issuer for the amount of such drawing with funds other than the proceeds of Revolving Credit Loans, the Borrower shall be deemed to have given a Notice of Borrowing requesting that the Lenders with Revolving Credit Commitments make Revolving Credit Loans (which shall be ABR Loans) on the Required Reimbursement Date in an amount equal to the amount of such drawing, and (ii) the Administrative Agent shall promptly notify each Letter of Credit Participant of such drawing and the amount of its Revolving Credit Loan to be made in respect thereof, and each Letter of Credit Participant shall be irrevocably obligated to make a Revolving Credit Loan to the Borrower in the manner deemed to have been requested in the amount of its Revolving Credit Commitment Percentage of the applicable Unpaid Drawing by 12:00 noon (New York City time) on such Required Reimbursement Date by making the amount of such Revolving Credit Loan available to the Administrative Agent. Such Revolving Credit Loans made in respect of such Unpaid Drawing on such Required Reimbursement Date shall be made without regard to the Minimum Borrowing Amount and without regard to the satisfaction of the conditions set forth in Section 7. The Administrative Agent shall use the proceeds of such Revolving Credit Loans solely for the purpose of reimbursing the Letter of Credit Issuer for the related Unpaid Drawing. If and to the extent such Letter of Credit Participant shall not have so made its Revolving Credit Commitment Percentage of the amount of such payment available to the Administrative Agent for the account of the Letter of Credit Issuer, such Letter of Credit Participant agrees to pay to the Administrative Agent for the account of the Letter of Credit Issuer, forthwith on demand, such amount, together with interest thereon for each day from such date until the date such amount is paid to the Administrative Agent for the account of the Letter of Credit Issuer at a rate per annum equal to the Federal Funds Effective Rate from time to time then in effect, plus any administrative, processing or similar fees customarily charged by the Letter of Credit Issuer in connection with the foregoing. The failure of any Letter of Credit Participant to make available to the Administrative Agent for the account of the Letter of Credit Issuer its Revolving Credit Commitment Percentage of any payment under any Letter of Credit shall not relieve any other Letter of Credit Participant of its obligation hereunder to make available to the Administrative Agent for the account of the Letter of Credit Issuer its Revolving Credit Commitment Percentage of any payment under such Letter of Credit on the date required, as specified above, but no Letter of Credit Participant shall be responsible for the failure of any other Letter of Credit Participant to make available to the Administrative Agent such other Letter of Credit Participant’s Revolving Credit Commitment Percentage of any such payment.

(b) The obligations of the Borrower under this Section 3.4 to reimburse the Letter of Credit Issuer with respect to Unpaid Drawings (including, in each case, interest thereon) shall be absolute and unconditional under any and all circumstances and irrespective of any set-off, counterclaim or defense to payment that the Borrower or any other Person may have or have had against the Letter of Credit Issuer, the Administrative Agent or any Lender (including in its capacity as a Letter of Credit Participant), including any defense based upon the failure of any drawing under a Letter of Credit (each a "Drawing") to conform to the terms of the Letter of Credit or any non-application or misapplication by the beneficiary of the proceeds of such Drawing; provided, that the Borrower shall not be obligated to reimburse the Letter of Credit Issuer for any wrongful payment made by the Letter of Credit Issuer under the Letter of Credit issued by it as a result of acts or omissions constituting willful misconduct or gross negligence on the part of the Letter of Credit Issuer as determined in the final, non-appealable judgment of a court of competent jurisdiction.

(c) The obligation of the Borrower to reimburse the Letter of Credit Issuer for each drawing under each Letter of Credit and to repay each Letter of Credit Borrowing shall be absolute, unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Credit Document;

(ii) the existence of any claim, counterclaim, set-off, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the Letter of Credit Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) waiver by the Letter of Credit Issuer of any requirement that exists for the Letter of Credit Issuer's protection and not the protection of the Borrower or any waiver by the Letter of Credit Issuer which does not in fact materially prejudice the Borrower;

(v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vi) any payment made by the Letter of Credit Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vii) any payment by the Letter of Credit Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the Letter of Credit Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any Subsidiary;

provided that the foregoing shall not excuse the Letter of Credit Issuer from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower as a result of acts or omissions of or by the Letter of Credit Issuer constituting gross negligence or willful misconduct as determined in the final, non-appealable judgment of a court of competent jurisdiction.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity as to the form of any such Letter of Credit, the Borrower will promptly notify the Letter of Credit Issuer. To the extent the Borrower has approved the form of any Letter of Credit, the Borrower shall be conclusively deemed to have waived any claim against the Letter of Credit Issuer and its correspondents based on any noncompliance of such Letter of Credit to conform with the Borrower's instructions or other irregularity as to such form.

3.5 **Increased Costs.** If the adoption of any Change in Law shall either (a) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against letters of credit issued by the Letter of Credit Issuer, or any Letter of Credit Participant's Letter of Credit Participation therein or (b) impose on the Letter of Credit Issuer or any Letter of Credit Participant any other conditions affecting its obligations under this Agreement in respect of Letters of Credit or Letter of Credit Participations therein or any Letter of Credit or such Letter of Credit Participant's Letter of Credit Participation therein, and the result of any of the foregoing is to increase the cost to the Letter of Credit Issuer or such Letter of Credit Participant of issuing, maintaining or participating in any Letter of Credit, or to reduce the amount of any sum received or receivable by the Letter of Credit Issuer or such Letter of Credit Participant hereunder (other than any such increase or reduction attributable to (i) taxes indemnified under Section 5.4, (ii) taxes described in clause (A), (B) or (C) of Section 5.4(a) or (iii) taxes described in clause (f) of Section 5.4) in respect of Letters of Credit or Letter of Credit Participations therein, then, promptly after receipt of written demand to the Borrower by the Letter of Credit Issuer or such Letter of Credit Participant, as the case may be (a copy of which notice shall be sent by the Letter of Credit Issuer or such Letter of Credit Participant to the Administrative Agent), the Borrower shall pay to the Letter of Credit Issuer or such Letter of Credit Participant such additional amount or amounts as will compensate the Letter of Credit Issuer or such Letter of Credit Participant for such increased cost or reduction, it being understood and agreed, however, that the Letter of Credit Issuer or a Letter of

Credit Participant shall not be entitled to such compensation as a result of such Person's compliance with, or pursuant to any request or directive to comply with, any such Applicable Law that would have existed in the event a Change in Law had not occurred. A certificate submitted to the Borrower by the Letter of Credit Issuer or a Letter of Credit Participant, as the case may be (a copy of which certificate shall be sent by the Letter of Credit Issuer or such Letter of Credit Participant to the Administrative Agent), setting forth in reasonable detail the basis for the determination of such additional amount or amounts necessary to compensate the Letter of Credit Issuer or such Letter of Credit Participant as aforesaid shall be conclusive and binding on the Borrower absent clearly demonstrable error.

3.6 New or Successor Letter of Credit Issuer. (a) The Letter of Credit Issuer may resign as a Letter of Credit Issuer upon 30 days' prior written notice to the Administrative Agent, the Revolving Credit Lenders and the Borrower. Subject to the terms of the following sentence, the Borrower may replace the Letter of Credit Issuer for any reason upon written notice to the Administrative Agent and the Letter of Credit Issuer and the Borrower may add Letter of Credit Issuers at any time upon notice to the Administrative Agent and with the agreement of such new Letter of Credit Issuer. If the Letter of Credit Issuer shall resign or be replaced, or if the Borrower shall decide to add a new Letter of Credit Issuer under this Agreement, then the Borrower may appoint a successor issuer of Letters of Credit or a new Letter of Credit Issuer, as the case may be, with the consent of the Administrative Agent (such consent not to be unreasonably withheld), whereupon such successor issuer shall succeed to the rights, powers and duties of the replaced or resigning Letter of Credit Issuer under this Agreement and the other Credit Documents, or such new issuer of Letters of Credit shall be granted the rights, powers and duties of a Letter of Credit Issuer hereunder, and the term "Letter of Credit Issuer" shall mean such successor or such new issuer of Letters of Credit effective upon such appointment. At the time such resignation or replacement shall become effective, the Borrower shall pay to the resigning or replaced Letter of Credit Issuer all accrued and unpaid fees pursuant to Sections 4.1(c) and 4.1(d). The acceptance of any appointment as a Letter of Credit Issuer hereunder, whether as a successor issuer or new issuer of Letters of Credit in accordance with this Agreement, shall be evidenced by an agreement entered into by such new or successor issuer of Letters of Credit, in a form satisfactory to the Borrower and the Administrative Agent, and, from and after the effective date of such agreement, such new or successor issuer of Letters of Credit shall become a "Letter of Credit Issuer" hereunder. After the resignation or replacement of a Letter of Credit Issuer hereunder, the resigning or replaced Letter of Credit Issuer shall remain a party hereto and shall continue to have all the rights and obligations of a Letter of Credit Issuer under this Agreement and the other Credit Documents with respect to Letters of Credit issued by it prior to such resignation or replacement, but shall not be required to issue additional Letters of Credit or amend or renew existing Letters of Credit. In connection with any resignation or replacement pursuant to this clause (a) (but, in case of any such resignation, only to the extent that a successor issuer of Letters of Credit shall have been appointed), either (i) the Borrower, the resigning or replaced Letter of Credit Issuer and the successor issuer of Letters of Credit shall arrange to have any outstanding Letters of Credit issued by the resigning or replaced Letter of Credit Issuer replaced with Letters of Credit issued by the successor issuer of Letters of Credit or (ii) the Borrower shall cause the successor issuer of Letters of Credit, if such successor issuer is reasonably satisfactory to the replaced or resigning Letter of Credit Issuer, to issue "back-stop" Letters of Credit naming the resigning or replaced Letter of Credit Issuer as beneficiary for each outstanding Letter of Credit issued by the

resigning or replaced Letter of Credit Issuer, which new Letters of Credit shall have a face amount equal to the Letters of Credit being back-stopped, and the sole requirement for drawing on such new Letters of Credit shall be a drawing on the corresponding back-stopped Letters of Credit. After any resigning or replaced Letter of Credit Issuer's resignation or replacement as Letter of Credit Issuer, the provisions of this Agreement relating to a Letter of Credit Issuer shall inure to its benefit as to any actions taken or omitted to be taken by it (A) while it was a Letter of Credit Issuer under this Agreement or (B) at any time with respect to Letters of Credit issued by such Letter of Credit Issuer.

(b) To the extent that there are, at the time of any resignation or replacement as set forth in clause (a) above, any outstanding Letters of Credit, nothing herein shall be deemed to impact or impair any rights and obligations of any of the parties hereto with respect to such outstanding Letters of Credit (including, without limitation, any obligations related to the payment of fees or the reimbursement or funding of amounts drawn), except that the Borrower, the resigning or replaced Letter of Credit Issuer and the successor issuer of Letters of Credit shall have the obligations regarding outstanding Letters of Credit described in clause (a) above.

(c) On a monthly basis, each Letter of Credit Issuer shall deliver to the Administrative Agent and the Borrower a complete list of all outstanding Letters of Credit issued by such Letter of Credit Issuer.

3.7 Role of Letter of Credit Issuer. Each Revolving Credit Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the Letter of Credit Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the Letter of Credit Issuer, the Administrative Agent, any of their respective Affiliates or any correspondent, participant or assignee of the Letter of Credit Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Required Lenders or the Required Revolving Class Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Letter of Credit Issuer, the Administrative Agent, any of their respective Affiliates or any correspondent, participant or assignee of the Letter of Credit Issuer shall be liable or responsible for any of the matters described in Section 3.4(c); provided that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the Letter of Credit Issuer, and the Letter of Credit Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower caused by the Letter of Credit Issuer's willful misconduct or gross negligence or the Letter of Credit Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the Letter of Credit Issuer may accept

documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Letter of Credit Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

### 3.8 Cash Collateral.

(a) If, as of the Letter of Credit Maturity Date, there are any Letter of Credit Obligations, the Borrower shall promptly Cash Collateralize the Letter of Credit Obligations that for any reason remain outstanding. Section 2.16 and Section 5.2 set forth certain additional requirements to deliver Cash Collateral hereunder.

(b) If any Event of Default shall occur and be continuing, the Required Revolving Class Lenders may require that the Letter of Credit Obligations be Cash Collateralized; provided that, upon the occurrence of an Event of Default referred to in Section 11.5, the Borrower shall immediately Cash Collateralize the Letters of Credit then outstanding and no notice or request by or consent from the Required Lenders shall be required.

(c) For purposes of this Agreement, "Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Letter of Credit Issuers as collateral for the Letter of Credit Obligations, cash or deposit account balances ("Cash Collateral") in an amount equal to 100% of the amount of the Letter of Credit Obligations required to be Cash Collateralized pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent and the Letter of Credit Issuers (which documents are hereby consented to by the Revolving Credit Lenders). Derivatives of such terms have corresponding meanings. The Borrower hereby grants to the Administrative Agent, for the benefit of the Letter of Credit Issuers and the Letter of Credit Participants a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. Cash Collateral shall be maintained in blocked, interest bearing deposit accounts with the Administrative Agent. If at any time the Administrative Agent determines that any funds held as Cash Collateral are subject to any right or claim of any Person other than the Administrative Agent or that the total amount of such funds is less than the Letter of Credit Obligations, the Borrower will, forthwith upon demand by the Administrative Agent, pay to the Administrative Agent, as additional funds to be deposited as Cash Collateral, an amount equal to the excess of (x) such aggregate outstanding amount over (y) the total amount of funds, if any, then held as Cash Collateral that the Administrative Agent determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit as Cash Collateral, such funds shall be applied, to the extent permitted under Applicable Laws to reimburse the applicable Letter of Credit Issuer. To the extent the amount of any Cash Collateral exceeds the aggregate outstanding amount of all Letter of Credit Obligations and so long as no Event of Default has occurred and is continuing, the excess shall be refunded to the Borrower.

3.9 Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

3.10 Letters of Credit Issued for Restricted Subsidiaries.

Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Restricted Subsidiary, the Borrower shall be obligated to reimburse the applicable Letter of Credit Issuer hereunder for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Restricted Subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Restricted Subsidiaries.

3.11 Existing Letters of Credit. Subject to the terms and conditions hereof, each existing "Letter of Credit" (as defined in the Original Credit Agreement) that is outstanding on the Effective Date, shall, effective as of the Effective Date and without any further action by the Borrower, be continued as a Letter of Credit hereunder, from and after the Effective Date be deemed a Letter of Credit for all purposes hereof, and be subject to and governed by the terms and conditions hereof.

3.12 Applicability of ISP and UCP. Unless otherwise expressly agreed by the applicable Letter of Credit Issuer and the Borrower when a Letter of Credit is issued, (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the UCP shall apply to each commercial Letter of Credit. Notwithstanding the foregoing, such Letter of Credit Issuer shall not be responsible to the Borrower for, and such Letter of Credit Issuer's rights and remedies against the Borrower shall not be impaired by, any action or inaction of such Letter of Credit Issuer required or permitted under any Applicable Law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Applicable Law or any order of a jurisdiction where such Letter of Credit Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

SECTION 4. Fees; Commitment Reductions and Terminations.

4.1 Fees. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Credit Lender (in each case pro rata according to the respective Revolving Credit Commitments of all such Revolving Credit Lenders) a commitment fee (the "Commitment Fee") that shall accrue from and including the Amendment No. 2 Effective Date to but excluding the Revolving Credit Termination Date. Each Commitment Fee shall be payable (x) quarterly in arrears on the last Business Day of each March, June, September and December (for the three-month period (or portion thereof) ended on such day for which no payment has been received) and (y) on the Revolving Credit Termination Date (for the period ended on such date for which no payment has been received pursuant to clause (x) above), and shall be computed for each day during such period at a rate per annum equal to the Commitment Fee Rate in effect on such day to be calculated based on the actual amount of the Available Revolving Credit Commitment (assuming for this purpose that there is no reference to "Swingline Loans" in clause (b)(i) of the definition of Available Revolving Credit Commitment) in effect on such day.

(b) The Borrower agrees to pay (i) directly to the applicable Letter of Credit Issuer for its own account a fronting fee (the “Fronting Fee”) with respect to each Letter of Credit, computed at the rate for each day equal to 0.125% per annum or such other amount as is agreed in a separate writing between any Letter of Credit Issuer and the Borrower times the average daily Stated Amount of such Letter of Credit and (ii) any other letter of credit fee agreed to in writing by any Letter of Credit Issuer and the Borrower. The Fronting Fee shall be due and payable quarterly in arrears on the first Business Day after the end of each March, June, September and December, in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Maturity Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.8. In addition, the Borrower agrees to pay directly to the applicable Letter of Credit Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such Letter of Credit Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable within 10 Business Days after demand and are nonrefundable.

(c) The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Credit Lender, pro rata according to the Letter of Credit Exposure of such Lender, a fee in respect of each Letter of Credit (the “Letter of Credit Fee”), for the period from and including the date of issuance of such Letter of Credit to but excluding the termination or expiration date of such Letter of Credit, computed at the per annum rate for each day equal to (x) the Applicable Margin for Eurodollar Loans then in effect for Revolving Credit Loans times (y) the average daily Stated Amount of such Letter of Credit. The Letter of Credit Fee shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December and on the Revolving Credit Termination Date. If there is any change in the Applicable Margin during any quarter, the daily maximum amount of each Letter of Credit shall be computed and multiplied by the Applicable Margin separately for each period during such quarter that such Applicable Margin was in effect.

(d) The Borrower agrees to pay to the Administrative Agent the administrative fees in the amounts and on the dates as set forth in the Agency Fee Letter.

4.2 Voluntary Reduction of Commitments. (a) Upon prior written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent at the Administrative Agent’s Office (which notice the Administrative Agent shall promptly transmit to each of the Lenders), the Borrower shall have the right, without premium or penalty, on any day, permanently to terminate or reduce the Commitments of any Class as determined by the Borrower, in whole or in part; provided that (a) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. three Business Days prior to the date of termination or reduction, (b) any such termination or reduction shall apply proportionately and permanently to reduce the Commitments of each of the Lenders within any such Class, except that, notwithstanding the foregoing, (1) the Borrower may allocate any termination or reduction of Commitments among Classes of Commitments at its direction (including, for the avoidance of doubt, to the Commitments with respect to any Class of Extended Revolving Credit Commitments without any termination or reduction of the Commitments with respect to any



Existing Revolving Credit Class of the same Specified Existing Revolving Credit Commitment Class) and (2) in connection with the establishment on any date of any Extended Revolving Credit Commitments pursuant to Section 2.15, the Existing Revolving Credit Commitments of any one or more Lenders providing any such Extended Revolving Credit Commitments on such date shall be reduced in an amount equal to the amount of Specified Existing Revolving Credit Commitments so extended on such date (or, if agreed by the Borrower and the Lenders providing such Extended Revolving Credit Commitments, by any greater amount so long as the Borrower prepays the Existing Revolving Credit Loans of such Class owed to such Lenders providing such Extended Revolving Credit Commitments to the extent necessary to ensure that after giving effect to such repayment or reduction, the Existing Revolving Credit Loans of such Class are held by the Lenders of such Class on a pro rata basis in accordance with their Existing Revolving Credit Commitments of such Class after giving effect to such reduction) (provided that (x) after giving effect to any such reduction and to the repayment of any Loans made on such date, the aggregate amount of the revolving credit exposure of any such Lender does not exceed the Existing Revolving Credit Commitment thereof (such revolving credit exposure and Existing Revolving Credit Commitment being determined in each case, for the avoidance of doubt, exclusive of such Lender's Extended Revolving Credit Commitment and any exposure in respect thereof) and (y) for the avoidance of doubt, any such repayment of Loans contemplated by the preceding clause shall be made in compliance with the requirements of Section 5.3(a) with respect to the ratable allocation of payments hereunder, with such allocation being determined after giving effect to any exchange pursuant to Section 2.15 of Existing Revolving Credit Commitments and Existing Revolving Credit Loans into Extended Revolving Credit Commitments and Extended Revolving Credit Loans respectively, and prior to any reduction being made to the Commitment of any other Lender), (c) any partial reduction pursuant to this Section 4.2 shall be in an aggregate amount of \$10,000,000 or any whole multiple of \$1,000,000 in excess thereof, (d) after giving effect to such termination or reduction and to any prepayments of Revolving Credit Loans or cancellation or Cash Collateralization of Letters of Credit made on the date thereof in accordance with this Agreement, the aggregate amount of the Lenders' Revolving Credit Exposures for such Class shall not exceed the Total Revolving Credit Commitment for such Class, (e) after giving effect to such termination or reduction and to any prepayments of Additional/Replacement Revolving Credit Loans of any Class or cancellation or cash collateralization of letters of credit made on the date thereof in accordance with the Agreement, the aggregate amount of such Lender's revolving credit exposure shall not exceed the Total Additional/Replacement Revolving Credit Commitment for such Class and (f) if, after giving effect to any reduction hereunder, the Total Letter of Credit Commitment or the Total Swingline Commitment exceeds the sum of the Total Revolving Credit Commitment and the Total Additional/Replacement Revolving Credit Commitment (if any), such Commitment shall be automatically reduced by the amount of such excess.

(b) Upon at least one Business Day's prior written notice (or telephonic notice promptly confirmed in writing) to the Administrative Agent and each Letter of Credit Issuer (which notice the Administrative Agent shall promptly transmit to each of the applicable Revolving Credit Lenders), the Borrower shall have the right, on any day, permanently to terminate or reduce the Total Letter of Credit Commitment in whole or in part; provided that, after giving effect to such termination or reduction, (i) the Letter of Credit Obligations shall not exceed the Total Letter of Credit Commitment and (ii) the Letter of Credit Obligations applicable to each Letter of Credit Issuer shall not exceed such Letter of Credit Issuer's Letter of Credit Commitment.

(c) The Borrower may terminate the unused amount of the Commitment of a Defaulting Lender upon not less than two Business Days' prior notice to the Administrative Agent (which will promptly notify the Lenders thereof), and in such event the provisions of Section 2.16(a)(iv) will apply to all amounts thereafter paid by the Borrower for the account of such Defaulting Lender under this Agreement (whether on account of principal, interest, fees, indemnity or other amounts), provided that such termination will not be deemed to be a waiver or release of any claim the Borrower, the Administrative Agent, any Letter of Credit Issuer, any Swingline Lender or any Lender may have against such Defaulting Lender.

4.3 Mandatory Termination of Commitments. (a) The Initial Term Loan Commitment shall terminate at 5:00 p.m. (New York City time) on the Effective Date.

(b) The Total Revolving Credit Commitment shall terminate at 5:00 p.m. (New York City time) on the Revolving Credit Maturity Date.

(c) All Swingline Commitments shall terminate at 5:00 p.m. (New York City time) on the Swingline Maturity Date.

(d) The Incremental Term Loan Commitment for any Class shall, unless otherwise provided in the documentation governing such Incremental Term Loan Commitment, terminate at 5:00 p.m. (New York City time) on the Incremental Facility Closing Date for such Class.

(e) The Additional/Replacement Revolving Credit Commitment for any Class shall terminate at 5:00 p.m. (New York City time) on the maturity date for such Class specified in the documentation governing such Class.

(f) The Extended Loan/Commitment for any Extension Series shall terminate at 5:00 p.m. (New York City time) on the maturity date for such tranche specified in the Extension Agreement.

#### SECTION 5. Payments

5.1 Voluntary Prepayments. (a) The Borrower shall have the right to prepay Term Loans, Revolving Credit Loans, Extended Revolving Credit Loans, Additional/Replacement Revolving Credit Loans and Swingline Loans, without, except as set forth in Section 5.1(b), premium or penalty, in whole or in part from time to time on the following terms and conditions: (a) the Borrower shall give the Administrative Agent at the Administrative Agent's Office written notice (or telephonic notice promptly confirmed in writing) of its intent to make such prepayment, the amount of such prepayment and in the case of Eurodollar Loans, the specific Borrowing(s) pursuant to which made, which notice shall be given by the Borrower no later than (i) in the case of Term Loans, Extended Revolving Credit Loans, Additional/Replacement Revolving Credit Loans or Revolving Credit Loans, 1:00 p.m. (New York City time) (x) one Business Day prior to (in the case of ABR Loans) or (y) three Business Days prior to (in the case of Eurodollar Loans), or (ii) in the case of Swingline Loans, 1:00 p.m. (New York City time) on, the date of such prepayment and shall promptly be

transmitted by the Administrative Agent to each of the relevant Lenders or the relevant Swingline Lenders, as the case may be; (b) each partial prepayment of any Borrowing of Term Loans or Revolving Credit Loans shall be in a multiple of \$100,000 and in an aggregate principal amount of at least \$1,000,000 and each partial prepayment of Swingline Loans shall be in a multiple of \$100,000 and in an aggregate principal amount of at least \$100,000; provided that no partial prepayment of Eurodollar Loans made pursuant to a single Borrowing shall reduce the outstanding Eurodollar Loans made pursuant to such Borrowing to an amount less than the Minimum Borrowing Amount for Eurodollar Loans and (c) any prepayment of Eurodollar Loans pursuant to this Section 5.1 on any day other than the last day of an Interest Period applicable thereto shall be subject to compliance by the Borrower with the applicable provisions of Section 2.11. Each such notice shall specify the date and amount of such prepayment and the Class(es) and Type(s) of Loans to be prepaid. Each prepayment in respect of any Class of Term Loans pursuant to this Section 5.1 shall be applied to reduce the Repayment Amounts in such order as the Borrower may determine and may be applied to any Class of Term Loans as directed by the Borrower. For the avoidance of doubt, the Borrower may (i) prepay Term Loans of an Existing Term Loan Class pursuant to this Section 5.1 without any requirement to prepay Extended Term Loans that were exchanged from such Existing Term Loan Class and (ii) prepay Extended Term Loans pursuant to this Section 5.1 without any requirement to prepay Term Loans of an Existing Term Loan Class that were exchanged for such Extended Term Loans. In the event that the Borrower does not specify the order in which to apply prepayments to reduce Repayment Amounts or as between Classes of Term Loans, the Borrower shall be deemed to have elected that such proceeds be applied to reduce the Repayment Amounts in direct order of maturity and/or a pro rata basis among Term Loan Classes. All prepayments under this Section 5.1 shall also be subject to the provisions of Section 5.2(d) and Section 5.2(e). At the Borrower's election in connection with any prepayment pursuant to this Section 5.1, such prepayment shall not be applied to any Loan of a Defaulting Lender.

(b) Notwithstanding anything to the contrary contained in this Agreement, at the time of the effectiveness of any Repricing Transaction with respect to the Initial Term Loans that is consummated prior to the date that is six months following the Effective Date, the Borrower agrees to pay to the Administrative Agent, for the ratable account of each Lender with outstanding Initial Term Loans, a fee in an amount equal to 1.0% of (i) in the case of a Repricing Transaction of the type described in clause (a) of the definition thereof, the aggregate principal amount of all Initial Term Loans prepaid (or exchanged) in connection with such Repricing Transaction, and (ii) in the case of a Repricing Transaction described in clause (b) of the definition thereof, the aggregate principal amount of all the Initial Term Loans outstanding on such date that are subject to an effective pricing reduction pursuant to such Repricing Transaction. Such fees shall be due and payable upon the date of the effectiveness of such Repricing Transaction.

## 5.2 Mandatory Prepayments.

### (a) Term Loan Prepayments.

(i) On each occasion that a Prepayment Event occurs, the Borrower shall, within one Business Day after the receipt of Net Cash Proceeds from a Debt Incurrence Prepayment Event, and within five Business Days after the receipt of Net Cash Proceeds in

connection with the occurrence of any other Prepayment Event, offer to prepay, in accordance with Sections 5.2(c) and (d) below, a principal amount of Term Loans in an amount equal to 100% of the Net Cash Proceeds from such Prepayment Event; provided, that, in the case of Net Cash Proceeds from an Asset Sale Prepayment Event, a Recovery Prepayment Event or a Permitted Sale Leaseback, the Borrower may use a portion of such Net Cash Proceeds to prepay, redeem or repurchase Permitted First Priority Refinancing Debt or other Permitted Additional Debt with a Lien on the Collateral not ranking junior or senior to the Liens securing the Obligations (but without regard to the control of remedies), the documentation of which requires the issuer of or borrower under such Indebtedness to prepay or make an offer to purchase such Indebtedness with the proceeds of such Prepayment Event, in each case in an amount not to exceed the product of (x) the amount of such Net Cash Proceeds multiplied by (y) a fraction, the numerator of which is the outstanding principal amount of Permitted First Priority Refinancing Debt and other Permitted Additional Debt with a Lien on the Collateral not ranking junior or senior to the Liens securing the Obligations (but without regard to the control of remedies) and with respect to which such a requirement to prepay or make an offer to redeem or purchase exists and the denominator of which is the sum of the outstanding principal amount of such Permitted First Priority Refinancing Debt and other Permitted Additional Debt and the outstanding principal amount of Term Loans.

(ii) Not later than the date that is 10 Business Days following the date Section 9.1 Financials are required to be delivered under Section 9.1(a) (commencing with the Section 9.1 Financials to be delivered with respect to the fiscal year ending December 31, 2017), the Borrower shall offer to prepay, in accordance with Sections 5.2(c) and (d) below, an aggregate principal amount of Term Loans equal to (x) 50% of Excess Cash Flow for such fiscal year (or if the Consolidated Total Debt to Consolidated EBITDA Ratio for the fiscal year ended prior to such prepayment date for which the Borrower has delivered Section 9.1 Financials is less than or equal to 3.5 to 1.0, 25% of Excess Cash Flow for such fiscal year) minus (y) at the Borrower's option, the aggregate principal amount of Term Loans voluntarily prepaid pursuant to Section 5.1 and Revolving Credit Loans, Extended Revolving Credit Loans and Additional/Replacement Revolving Credit Loans voluntarily prepaid pursuant to Section 5.1 to the extent accompanied by a permanent reduction of the Revolving Credit Commitments, Extended Revolving Credit Commitments or the Additional/Replacement Revolving Credit Commitments, as applicable, in an equal amount pursuant to Section 4.2, in each case during such fiscal year or after year-end and prior to the time such prepayment pursuant to this Section 5.2(a)(ii) is due (excluding the aggregate principal amount of any such voluntary prepayments made with the proceeds of issuances or incurrences of long-term Indebtedness or equity); provided that no prepayment of any Term Loans shall be required under this Section 5.2(a)(ii) if the Consolidated Total Debt to Consolidated EBITDA Ratio for the fiscal year ended prior to such prepayment date, for which the Borrower has delivered Section 9.1 Financials, is less than or equal to 3.0 to 1.0; provided, further, that the calculation of the Consolidated Total Debt to Consolidated EBITDA Ratio for the purposes of this Section 5.2(a)(ii) shall give Pro Forma Effect to all prepayments made under Sections 5.1 and 5.2 (other than prepayments made pursuant to this Section 5.2(a)(ii)) made after the last day of any such Test Period but prior to the date of prepayment under this Section 5.2(a)(ii) as if such prepayments occurred as of the last day of the most recently ended Test Period. Any prepayment amounts credited pursuant to subclause (y) above against such amount in subclause (x) above shall be without duplication of any such credit in any prior or subsequent fiscal year.

(b) Repayment of Revolving Credit Loans. If on any date the aggregate amount of the Revolving Credit Lenders' Revolving Credit Exposures for any reason exceeds the Total Revolving Credit Commitment as then in effect, the Borrower shall forthwith repay on such date the principal amount of Swingline Loans and, after all Swingline Loans have been paid in full, Revolving Credit Loans in an amount equal to such excess. If, after giving effect to the prepayment of all outstanding Swingline Loans and Revolving Credit Loans, the aggregate amount of the Lenders' Revolving Credit Exposures exceed the Total Revolving Credit Commitment then in effect, the Borrower shall Cash Collateralize the Letter of Credit Obligations to the extent required to eliminate such excess.

(c) Application to Repayment Amounts. (i) Subject to clause (ii) of this Section 5.2(c) and the proviso to Section 5.2(a)(i), (A) each prepayment of Term Loans required by Section 5.2(a)(i) (other than in connection with a Debt Incurrence Prepayment Event) shall be allocated to the Classes of Term Loans outstanding, pro rata, based upon the applicable remaining Repayment Amounts due in respect of each such Class of Term Loans, shall be applied pro rata to Lenders within each Class, based upon the outstanding principal amounts owing to each such Lender under each such Class of Term Loans and be applied to reduce such scheduled Repayment Amounts within each such Class in accordance with Section 5.2(d)(ii), (B) each prepayment of Term Loans required by Section 5.2(a)(i) in connection with a Debt Incurrence Prepayment Event shall be allocated to any Class of Term Loans outstanding as directed by the Borrower, shall be applied pro rata to Lenders within each Class, based upon the outstanding principal amounts owing to each such Lender under each such Class of Term Loans and be applied to reduce such scheduled Repayment Amounts within each such Class in accordance with Section 5.2(d)(ii) and (C) each prepayment of Term Loans required by Section 5.2(a)(ii) shall be applied pro rata to the Term Lenders, based upon the outstanding principal amounts owing to each such Lender under each such Class and be applied to reduce such scheduled Repayment Amounts in accordance with Section 5.2(d)(ii); provided that, with respect to the allocation of such prepayments under either clause (A) or (C) above between an Existing Term Loan Class and Extended Term Loans of the same Extension Series, the Borrower may allocate such prepayments as the Borrower may specify, subject to the limitation that the Borrower shall not allocate to Extended Term Loans of any Extension Series any such mandatory prepayment under such clauses unless such prepayment is accompanied by at least a pro rata prepayment, based upon the applicable remaining Repayment Amounts due in respect thereof, of the Term Loans of the Existing Term Loan Class, if any, from which such Extended Term Loans were exchanged (or such Term Loans of the Existing Term Loan Class have otherwise been repaid in full).

(ii) With respect to each such prepayment required by Section 5.2(a)(i) and Section 5.2(a)(ii) (other than any Debt Incurrence Prepayment Event), (A) the Borrower will, not later than the date specified in Section 5.2(a) for offering to make such prepayment, give the Administrative Agent telephonic notice (promptly confirmed in writing) requesting that the Administrative Agent provide notice of such prepayment to each Lender of Term Loans and the Administrative Agent will promptly provide such notice to each Lender of Term Loans, (B) other than if such prepayment arises due to a Debt Incurrence Prepayment Event, each Term Lender will have the right to refuse any such prepayment by giving written notice of such refusal to the Administrative Agent and the Borrower within five Business Days after such Term Lender's receipt of notice from the Administrative Agent of such prepayment (and the Borrower shall not prepay any Term Loans until the date that is specified in clause (D) below) (such

refused amounts, the “Refused Proceeds”), (C) the Refused Proceeds will be re-offered for prepayment to the Term Lenders not having refused a prepayment under this Section 5.2(c)(ii) by the Administrative Agent promptly providing notice of such re-offer to each such Term Lender, each such Term Lender will have the right to refuse any such re-offer of prepayment by giving written notice of such refusal to the Administrative Agent and the Borrower within five Business Days after such Term Lender’s receipt of notice from the Administrative Agent of such re-offer of prepayment (and the Borrower shall not prepay any Term Loans until the date that is specified in clause (D) below), (D) the Borrower will make all such prepayments not so refused upon the earlier of (x) the tenth Business Day after the Term Lenders received first notice of repayment from the Administrative Agent and (y) such time as the Borrower has received notice from any Term Lender that it consents to such prepayment, and (E) thereafter, any remaining Refused Proceeds may be retained by the Borrower (the “Retained Refused Proceeds”).

(d) Application to Term Loans.

(i) With respect to each prepayment of Term Loans elected by the Borrower pursuant to Section 5.1 or pursuant to a Debt Incurrence Prepayment Event, such prepayments shall be applied to reduce Repayment Amounts in such order as the Borrower may specify (or, if not specified, in direct order of maturity) and the Borrower may designate the Types of Loans that are to be prepaid and the specific Borrowing(s) pursuant to which made; provided that the Borrower pays any amounts, if any, required to be paid pursuant to Section 2.11 with respect to prepayments of Eurodollar Loans made on any date other than the last day of the applicable Interest Period. In the absence of a designation by the Borrower as described in the preceding sentence, the Administrative Agent shall, subject to the above, make such designation in a manner that minimizes the amount of payments required to be made by the Borrower pursuant to Section 2.11.

(ii) With respect to each prepayment of Term Loans by the Borrower required pursuant to Section 5.2(a) (other than a Debt Incurrence Prepayment Event), such prepayments shall be applied to reduce Repayment Amounts in direct order of maturity for the respective scheduled payments pursuant to Section 2.5(b) following the applicable prepayment event with respect to each such mandatory prepayment and the amount of such mandatory prepayment shall be applied first to Term Loans that are ABR Loans to the full extent thereof before application to Term Loans that are Eurodollar Loans in a manner that minimizes the amount of any payments required to be made by the Borrower pursuant to Section 2.11.

(e) Application to Revolving Credit Loans; Mandatory Commitment Reductions. (i) With respect to each prepayment of Revolving Credit Loans, Extended Revolving Credit Loans and Additional/Replacement Revolving Credit Loans elected by the Borrower pursuant to Section 5.1 or required by Section 5.2(b), the Borrower may designate (i) the Class and Types of Loans that are to be prepaid and the specific Borrowing(s) pursuant to which made and (ii) the Revolving Credit Loans, Extended Revolving Credit Loans or Additional/Replacement Revolving Credit Loans to be prepaid; provided, that (x) Eurodollar Loans may be designated for prepayment pursuant to this Section 5.2 only on the last day of an Interest Period applicable thereto unless all Eurodollar Loans with Interest Periods ending on such date of required prepayment and all ABR Loans have been paid in full; (y) each prepayment of any Loans made pursuant to a Borrowing shall be applied pro rata among such Loans of such

Class (except that any prepayment made in connection with a reduction of the Commitments of such Class pursuant to Section 4.2 shall be applied pro rata based on the amount of the reduction in the Commitments of such Class of each applicable Lender); and (z) notwithstanding the provisions of the preceding clause (y), at the option of the Borrower, no prepayment made pursuant to Section 5.1 or Section 5.2(b) of Revolving Credit Loans, Extended Revolving Credit Loans or Additional/Replacement Revolving Credit Loans shall be applied to Loans of any Defaulting Lender. In the absence of a designation by the Borrower as described in the preceding sentence, the Administrative Agent shall, subject to the above, make such designation in a manner that minimizes the amount of any payments required to be made by the Borrower pursuant to Section 2.11.

(ii) With respect to each mandatory reduction and termination of Revolving Credit Commitments, Additional/Replacement Revolving Credit Commitments (and any previously extended Extended Revolving Credit Commitments) required by clause (ii) of the proviso to Section 2.14(b) or in connection with the incurrence of any Credit Agreement Refinancing Indebtedness issued or incurred to Refinance any Revolving Credit Commitments, Additional/Replacement Revolving Credit Commitments and/or Extended Revolving Credit Commitments, the Borrower may designate (A) the Classes of Commitments to be reduced and terminated and (B) the corresponding Classes of Loans to be prepaid; provided that (a) any such reduction and termination shall apply proportionately and permanently to reduce the Commitments of each of the Lenders within any such Class and (b) after giving effect to such termination or reduction and to any prepayments of Loans or cancellation or cash collateralization of letters of credit made on the date of each such reduction and termination in accordance with this Agreement, the aggregate amount of such Lenders' credit exposures shall not exceed the remaining Commitments of such Lenders' in respect of the Class reduced and terminated.

(f) Eurodollar Interest Periods. In lieu of making any payment pursuant to this Section 5.2 in respect of any Eurodollar Loan other than on the last day of the Interest Period therefor so long as no Default or Event of Default shall have occurred and be continuing, the Borrower at its option may deposit with the Administrative Agent an amount equal to the amount of the Eurodollar Loan to be prepaid and such Eurodollar Loan shall be repaid on the last day of the Interest Period therefor in the required amount. Such deposit shall be held by the Administrative Agent in a corporate time deposit account established on terms reasonably satisfactory to the Administrative Agent, earning interest at the then-customary rate for accounts of such type. Such deposit shall constitute cash collateral for the Obligations, provided that the Borrower may at any time direct that such deposit be applied to make the applicable payment required pursuant to this Section 5.2.

(g) Minimum Amount. No prepayment shall be required pursuant to Section 5.2(a)(i) (except to the extent such prepayment arises due to a Debt Incurrence Prepayment Event) unless and until the amount at any time of Net Cash Proceeds from Prepayment Events required to be offered at or prior to such time pursuant to such Section and not yet offered at or prior to such time to prepay Term Loans pursuant to such Section exceeds (i) \$5,000,000 for any single Prepayment Event or series of related Prepayment Events and (ii) \$10,000,000 in the aggregate for all such Prepayment Events, at which time the entire amount of such Net Cash Proceeds (not only the amount in excess of \$5,000,000 or \$10,000,000, as the case may be) will

be applied as provided in Section 5.2(a)(i), with the date of receipt of such Net Cash Proceeds being deemed for such purpose to be the date such thresholds set forth in clauses (i) and (ii) of this clause (g) are met.

(h) Foreign Asset Sales. Notwithstanding any other provisions of this Section 5.2, (i) to the extent that any of or all the Net Cash Proceeds of any asset sale by a Restricted Foreign Subsidiary giving rise to an Asset Sale Prepayment Event (a "Foreign Asset Sale"), the Net Cash Proceeds of any Recovery Event from a Restricted Foreign Subsidiary (a "Foreign Recovery Event"), or Excess Cash Flow that is attributable to Restricted Foreign Subsidiaries are prohibited or delayed by applicable local law from being repatriated to the United States, the portion of such Net Cash Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 5.2 but may be retained by the applicable Restricted Foreign Subsidiary so long, but only so long, as the applicable local law will not permit repatriation to the United States (the Borrower hereby agreeing to cause the applicable Restricted Foreign Subsidiary to promptly take all actions required by the applicable local law to permit such repatriation), and once such repatriation of any of such affected Net Cash Proceeds or Excess Cash Flow is permitted under the applicable local law, such repatriation will be immediately effected and such repatriated Net Cash Proceeds or Excess Cash Flow will be promptly (and in any event not later than two Business Days after such repatriation) applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Term Loans pursuant to this Section 5.2 and (ii) to the extent that the Borrower has determined in good faith that repatriation of any of or all the Net Cash Proceeds of any Foreign Asset Sale, any Foreign Recovery Event or Excess Cash Flow would have a material adverse tax cost consequence with respect to such Net Cash Proceeds or Excess Cash Flow, the Net Cash Proceeds or Excess Cash Flow so affected may be retained by the applicable Restricted Foreign Subsidiary; provided that, in the case of this clause (ii), on or before the date on which any Net Cash Proceeds from any Foreign Asset Sale or Foreign Recovery Event so retained would otherwise have been required to be applied to reinvestments or prepayments pursuant to Section 5.2(a) (or, in the case of Excess Cash Flow, a date on or before the date that is six months after the date such Excess Cash Flow would have been so required to be applied to prepayments pursuant to Section 5.2(a) (ii) unless previously repatriated in which case such repatriated Excess Cash Flow shall have been promptly applied to the repayment of the Term Loans pursuant to Section 5.2(a)), (x) the Borrower applies an amount equal to such Net Cash Proceeds or Excess Cash Flow to such reinvestments or prepayments as if such Net Cash Proceeds or Excess Cash Flow had been received by the Borrower rather than such Restricted Foreign Subsidiary, less the amount of additional taxes that would have been payable or reserved against if such Net Cash Proceeds or Excess Cash Flow had been repatriated (or, if less, the Net Cash Proceeds or Excess Cash Flow that would be calculated if received by such Foreign Subsidiary) or (y) such Net Cash Proceeds or Excess Cash Flow are applied to the repayment of Indebtedness of a Restricted Foreign Subsidiary.

5.3 Method and Place of Payment. (a) Except as otherwise specifically provided herein, all payments under this Agreement shall be made by the Borrower, without set-off, counterclaim or deduction of any kind, to the Administrative Agent for the ratable account of the Lenders entitled thereto, the Letter of Credit Issuers or the Swingline Lenders (except to the extent payments are to be made directly to a Letter of Credit Issuer or a Swingline Lender), as the case may be, not later than 2:00 p.m. (New York City time) on the date



when due and shall be made in immediately available funds in Dollars at the Administrative Agent's Office, it being understood that written or facsimile notice by the Borrower to the Administrative Agent to make a payment from the funds in the Borrower's account at the Administrative Agent's Office shall constitute the making of such payment to the extent of such funds held in such account. The Administrative Agent will thereafter cause to be distributed on the same day (if payment was actually received by the Administrative Agent prior to 2:30 p.m. (New York City time) on such day and, if not, on the next Business Day in the sole discretion of the Administrative Agent) like funds relating to the payment of principal or interest or Fees ratably to the Lenders entitled thereto or to the Letter of Credit Issuer or the Swingline Lender, as applicable.

(b) For purposes of computing interest or fees, any payments under this Agreement that are made later than 2:00 p.m. (New York City time) shall be deemed to have been made on the next succeeding Business Day in the sole discretion of the Administrative Agent (which may extend such deadline in its discretion whether or not such payments are in process). Except as otherwise provided herein, whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest shall be payable during such extension at the applicable rate in effect immediately prior to such extension.

5.4 Net Payments. (a) Except as required by Applicable Law, all payments made by or on behalf of the Borrower under this Agreement or any other Credit Document shall be made free and clear of, and without deduction or withholding for or on account of, any current or future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority (including any interest, additions to tax and penalties) (collectively, "Taxes"), excluding in the case of each Lender and each Agent and except as otherwise provided in Section 5.4(f), (A) net income Taxes (and franchise Taxes imposed in lieu of net income Taxes) that would not have been imposed on such Agent or such Lender but for a present or former connection between such Agent or such Lender and the jurisdiction of the Governmental Authority imposing such Tax or any political subdivision or Governmental Authority thereof or therein (other than any such connection arising from such Agent or such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, received or perfected a security interest under, or engaged in any other transactions pursuant to, this Agreement or any other Credit Document), (B) any branch profits Taxes imposed by the United States of America or any similar Tax imposed by any other jurisdiction described in clause (A) and (C) any U.S. federal withholding Tax pursuant to FATCA (all non-excluded Taxes, "Non-Excluded Taxes" and all such excluded Taxes, "Excluded Taxes"). If any Taxes are required to be withheld by a Withholding Agent from any amounts payable under this Agreement or any other Credit Document, the applicable Withholding Agent shall so withhold (pursuant to the information and documentation to be delivered pursuant to Section 5.4(d), 5.4(e) and 5.4(g)) and shall remit the amount withheld to the appropriate taxing authority. In addition, where an amount has been withheld in respect of a Non-Excluded Tax, the applicable Credit Party shall increase the amounts payable to the Administrative Agent or such Lender to the extent necessary to yield to the Administrative Agent or such Lender (after payment of all Non-Excluded Taxes or Other Taxes including those applicable to any amounts payable under this Section 5.4) interest or

any such other amounts payable hereunder at the rates or in the amounts specified in such Credit Document. Whenever any Taxes are payable by any Credit Party, as promptly as possible thereafter the applicable Credit Party shall send to the Administrative Agent for its own account or for the account of such Lender, as the case may be, a certified copy of an original official receipt, if available (or other evidence acceptable to such Lender, acting reasonably) received by the applicable Credit Party showing payment thereof.

(b) In addition, each Credit Party shall pay, or at the option of the Administrative Agent timely reimburse it for the payment for, any present or future stamp, documentary, filing, mortgage, recording, excise, property or intangible taxes (including any interest, additions to tax and penalties) that arise from any payment made by such Credit Party hereunder or under any other Credit Documents or from the execution, delivery or registration or recordation of, performance under, or otherwise with respect to, this Agreement or the other Credit Documents (hereinafter referred to as "Other Taxes").

(c) (i) Subject to Section 5.4(f), the Credit Parties shall indemnify each Lender and each Agent for and hold them harmless against the full amount of Non-Excluded Taxes and Other Taxes, (and for the full amount of Non-Excluded Taxes and Other Taxes imposed or asserted by any jurisdiction on any additional amounts or indemnities payable under this Section 5.4) imposed on or paid by such Lender or such Agent (as the case may be) and any liability (including penalties, additions to tax, interest and expenses) regardless of whether any such Taxes are correctly or legally asserted and arising therefrom or with respect thereto; provided that if any claim pursuant to this Section 5.4(c)(i) is made later than 180 days after the date on which the relevant Lender or Agent had actual knowledge of the relevant Non-Excluded Taxes or Other Taxes, then the Credit Parties shall not be required to indemnify the applicable Lender or Agent for any interest or penalties which accrue in respect of such Non-Excluded Taxes or Other Taxes after the 180th day. This indemnification shall be made within 30 days from the date such Lender or such Agent (as the case may be) makes written demand therefor.

(ii) Each Lender shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 30 days after demand therefor, (x) the Administrative Agent against any Non-Excluded Taxes attributable to such Lender (but only to the extent that any Credit Party has not already indemnified the Administrative Agent for such Non-Excluded Taxes and without limiting the obligation of Credit Parties to do so), (y) the Administrative Agent and the Credit Parties, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 13.6(d)(ii) relating to the maintenance of a Participant Register and (z) the Administrative Agent and the Credit Parties, as applicable, against any Excluded Taxes attributable to such Lender that are payable or paid by the Administrative Agent or the Credit Parties in connection with any Credit Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Credit Document against any amount due to the Administrative Agent under this clause (ii).

(d) Each Lender shall, at such times as are reasonably requested by the Borrower or the Administrative Agent, provide the Borrower and the Administrative Agent with any documentation prescribed by any Applicable Law or reasonably requested by the Borrower or the Administrative Agent (i) as will permit such payments to be made without, or at a reduced rate of, withholding or (ii) as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to withholding or information reporting requirements. Each such Lender shall, whenever a lapse in time or change in circumstances renders such documentation obsolete, expired or inaccurate in any material respect, deliver promptly to the Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the Borrower or the Administrative Agent) or promptly notify the Borrower and the Administrative Agent of its inability to do so. Unless the Borrower or the Administrative Agent has received forms or other documents satisfactory to it indicating that payments under any Credit Document to or for a Lender are not subject to withholding Tax or are subject to such Tax at a rate reduced by an applicable tax treaty, the Borrower or the Administrative Agent (as applicable) may withhold amounts required to be withheld by Applicable Law from such payments at the applicable statutory rate. Notwithstanding anything forgoing to the contrary, the completion, execution and submission of such documentation (other than such documentation set forth in Section 5.4(d)(i), Section 5.4(e) and Section 5.4(g) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender. Without limiting the foregoing to the extent permitted by law, each Lender that is not a United States person within the meaning of Section 7701(a)(30) of the Code (a "Non-U.S. Lender") shall:

(i) deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent) two originals of either (w) in the case of Non-U.S. Lender claiming exemption from U.S. federal withholding Tax under Section 871(h) or 881(c) of the Code with respect to payments of "portfolio interest," United States Internal Revenue Service Form W-8BEN (together with a certificate representing that such Non-U.S. Lender is not a bank for purposes of Section 881(c) of the Code, is not a 10-percent shareholder (within the meaning of Section 871(h)(3)(B) of the Code) of the Borrower and is not a controlled foreign corporation related to the Borrower (within the meaning of Section 864(d)(4) of the Code) substantially in the form of Exhibit M (a "United States Tax Compliance Certificate"), (x) United States Internal Revenue Service Form W-8BEN or Form W-8ECI, (y) to the extent a Non-U.S. Lender is not the Beneficial Owner (for example, where the Non-U.S. Lender is a partnership or a participating Lender), United States Internal Revenue Service Form W-8IMY (or any successor forms) of the Non-U.S. Lender, accompanied by a Form W-8ECI, W-8BEN, United States Tax Compliance Certificate, Form W-9, Form W-8IMY or any other required information from each Beneficial Owner, as applicable (provided that, if one or more Beneficial Owners are claiming the portfolio interest exemption, the United States Tax Compliance Certificate may be provided by such Non-U.S. Lender on behalf of such Beneficial Owner) or (z) two properly completed and duly signed original copies of any other form prescribed by applicable U.S. federal income Tax laws (including the United States Treasury Regulations) as a basis for claiming a complete exemption from, or a reduction in, U.S. federal withholding Tax on any payments to such Lender under the Credit Documents, in each case properly completed and duly executed by such Non-U.S. Lender claiming complete exemption from, or reduced rate of, U.S. federal withholding Tax on payments by the Borrower under this Agreement; and

(ii) deliver to the Borrower and the Administrative Agent two further originals of any such form or certification (or any applicable successor form) on or before the date that any such form or certification expires or becomes obsolete or inaccurate and promptly after the occurrence of any event requiring a change in the most recent form previously delivered by it to the Borrower;

unless in any such case any change in treaty, law or regulation has occurred prior to the date on which any such delivery would otherwise be required that renders any such form inapplicable or would prevent such Lender from duly completing and delivering any such form with respect to it. Each Lender shall promptly notify the Borrower and the Administrative Agent at any time it determines that it is no longer in a position to provide any previously delivered form or certification to the Borrower or the Administrative Agent.

Notwithstanding anything to the contrary in this Section 5.4(d), a Lender is not required to deliver any form or other documentation that it is not legally eligible to deliver.

(e) If a payment made to a Lender under this Agreement or any other Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Withholding Agent, at the time or times prescribed by Applicable Law and at such time or times reasonably requested by the Withholding Agent, such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Withholding Agent as may be necessary for the Withholding Agent to comply with its obligations under FATCA, to determine (i) whether such Lender has complied with such Lender's obligations under FATCA or (ii) the amount, if any, to deduct and withhold from such payment. Solely for purposes of this Section 5.4(e), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(f) No Credit Party shall be required to indemnify any Lender, Beneficial Owner or Agent pursuant to Section 5.4(c) or to pay any additional amounts to any Lender, Beneficial Owner or Agent, pursuant to Section 5.4(a) in respect of (i) U.S. federal withholding Taxes imposed under any Applicable Law in effect on the date such Lender or such Beneficial Owner acquired its interest in the applicable Loan, Commitment or Letter of Credit or changed its lending office; provided that this Section 5.4(f) shall not apply to the extent that (x) the indemnity payments or additional amounts such Lender (or such Beneficial Owner) would be entitled to receive (without regard to this clause (i)) do not exceed the indemnity payment or additional amounts that the person making the assignment, or change in lending office would have been entitled to receive immediately prior to such assignment or change in lending office, or (y) such assignment had been requested by a Credit Party and (ii) Taxes attributable to a Lender's failure to comply with the provisions of Section 5.4(d) or 5.4(g).

(g) Each Lender that is a United States person within the meaning of Section 7701(a)(30) of the Code shall (A) on or prior to the date such Lender becomes a Lender hereunder and (B) from time to time if reasonably requested by the Borrower or the Administrative Agent (or, in the case of a participant, the relevant Lender) to the extent such Lender is legally entitled to do so, provide the Administrative Agent and the Borrower (or, in the case of a participant, the relevant Lender) with two duly completed and signed originals of United States Internal Revenue Service Form W-9 (certifying that such Lender is entitled to an exemption from U.S. backup withholding Tax) or any successor form.

(h) Unless required by applicable Laws, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender, or have any obligation to pay to any Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender. If any Lender or the Administrative Agent determines in its sole discretion, exercised in good faith, that it has received a refund of a Non-Excluded Tax or Other Taxes for which a payment has been made by a Credit Party pursuant to this Agreement, which refund in the good faith judgment of such Lender or the Administrative Agent, as the case may be, is attributable to such payment made by such Credit Party, then such Lender or the Administrative Agent, as the case may be, shall reimburse the Credit Party for such amount (together with any interest received thereon) as such Lender or the Administrative Agent, as the case may be, reasonably determines to be the proportion of the refund as will leave it, after such reimbursement, in no better or worse position than it would have been in if the payment had not been required; provided that the Credit Party, upon the request of such Lender, agrees to repay the amount paid over to the Credit Party (with interest and penalties) in the event such Lender or the Administrative Agent is required to repay such refund to such Governmental Authority. Neither any Lender nor the Administrative Agent shall be obliged to disclose any information regarding its tax affairs or computations to any Credit Party in connection with this paragraph (h) or any other provision of this Section 5.4; provided, further, that nothing in this Section 5.4 shall obligate any Lender (or Transferee) or the Administrative Agent to apply for any refund.

(i) For purpose of this Section 5.4, the term “Lender” shall include any Swingline Lender and Letter of Credit Issuer.

(j) The agreements in this Section 5.4 shall survive the termination of this Agreement, the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, and the payment of the Loans and all other amounts payable hereunder.

5.5 Computations of Interest and Fees. All computations of interest and of fees shall be made by the Administrative Agent on the basis of a year of 360 days and, in the case of ABR Loans calculated on the Prime Rate, 365/366-days, in each case for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest and fees are payable.

5.6 Limit on Rate of Interest.

(a) No Payment Shall Exceed Lawful Rate. Notwithstanding any other term of this Agreement, the Borrower shall not be obliged to pay any interest or other amounts under or in connection with this Agreement in excess of the amount or rate permitted under or consistent with any Applicable Law.

(b) Payment at Highest Lawful Rate. If the Borrower is not obliged to make a payment which it would otherwise be required to make, as a result of Section 5.6(a), the Borrower shall make such payment to the maximum extent permitted by or consistent with Applicable Law.

(c) Adjustment if Any Payment Exceeds Lawful Rate. If any provision of this Agreement or any of the other Credit Documents would obligate the Borrower to make any payment of interest or other amount payable to any Lender in an amount or calculated at a rate which would be prohibited by any Applicable Law, then notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law (in the case of the Borrower), such adjustment to be effected, to the extent necessary, as follows:

- (i) firstly, by reducing the amount or rate of interest required to be paid by the Borrower to the affected Lender under Section 2.8; and
- (ii) thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid by the Borrower to the affected Lender.

Notwithstanding the foregoing, and after giving effect to all adjustments contemplated thereby, if any Lender shall have received from the Borrower an amount in excess of the maximum permitted by any Applicable Law, then the Borrower shall be entitled, by notice in writing to the Administrative Agent, to obtain reimbursement from such Lender in an amount equal to such excess, and pending such reimbursement, such amount shall be deemed to be an amount payable by such Lender to the Borrower.

#### SECTION 6. Conditions Precedent to Effective Date

The conditions to the effectiveness of this Agreement and the obligation of the Letter of Credit Issuers and the Lenders to make extensions of credit in connection with the initial Credit Event are set forth in Section 4 of the Amendment.

#### SECTION 7. Additional Conditions Precedent

7.1 No Default; Representations and Warranties. The agreement of each Lender to make any Loan requested to be made by it on any date (excluding Mandatory Borrowings and Letter of Credit Participations which shall each be made without regard to the satisfaction of the condition set forth in this Section 7.1 and excluding borrowings made pursuant to Section 2.14, which shall be subject to conditions precedent and representations to be agreed upon with the applicable Lenders) and the obligation of each Letter of Credit Issuer to issue, amend, extend or renew Letters of Credit on any date is subject to the satisfaction of the condition precedent that at the time of each such Credit Event and also after giving effect thereto (a) no Default or Event of Default shall have occurred and be continuing and (b) all representations and warranties made by any Credit Party contained herein or in the other Credit Documents shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on and as of the date of such Credit Event (except

where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date); provided that any representation and warranty that is qualified as to “materiality”, “Material Adverse Effect” or similar language shall be true and correct in all respects on the date of such credit extension or on such earlier date, as the case may be (after giving effect to such qualification). The acceptance of the benefits of each Credit Event shall constitute a representation and warranty by each Credit Party to each of the Lenders that the conditions contained in this Section 7.1 have been met as of such date.

7.2 Notice of Borrowing; Letter of Credit Request. (a) Prior to the making of each Term Loan, each Revolving Credit Loan (other than any Revolving Credit Loan made pursuant to Section 2.1(d) or 3.4), each Additional/Replacement Revolving Credit Loan, each Extended Revolving Credit Loan and each Swingline Loan, the Administrative Agent shall have received a Notice of Borrowing (whether in writing or by telephone) meeting the requirements of Section 2.3.

(b) Prior to the issuance of each Letter of Credit, the Administrative Agent and any Letter of Credit Issuer shall have received a Letter of Credit Request meeting the requirements of Section 3.2.

#### SECTION 8. Representations, Warranties and Agreements

In order to induce the Lenders to enter into this Agreement, make the Loans and issue, renew, amend, extend or participate in Letters of Credit as provided for herein, each of Holdings and the Borrower makes the following representations and warranties to, and agreements with, the Lenders and the Letter of Credit Issuers on the date of each Credit Event, all of which shall survive the execution and delivery of this Agreement, the making of the Loans and the issuance, renewal, amendment or extension of the Letters of Credit:

8.1 Corporate Status. Holdings, the Borrower and each Restricted Subsidiary (a) is a duly organized and validly existing corporation or other entity in good standing under the laws of the jurisdiction of its organization and has the corporate or other organizational power and authority to own its property and assets and to transact the business in which it is engaged and (b) has duly qualified and is authorized to do business and is in good standing in all jurisdictions where it is required to be so qualified, except where the failure to be so qualified could not reasonably be expected to result in a Material Adverse Effect.

8.2 Corporate Power and Authority; Enforceability. Each Credit Party has the corporate or other organizational power and authority to execute, deliver and carry out the terms and provisions of the Credit Documents to which it is a party and has taken all necessary corporate or other organizational action to authorize the execution, delivery and performance of the Credit Documents to which it is a party. Each Credit Party has duly executed and delivered each Credit Document to which it is a party and each such Credit Document constitutes the legal, valid and binding obligation of such Credit Party enforceable in accordance with its terms, subject to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization and other similar laws relating to or affecting creditors’ rights generally and general principles of equity (whether considered in a proceeding in equity or law). Holdings, the

Borrower and each of the Restricted Subsidiaries (a) is in compliance with all Applicable Laws and (b) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted except, in each case to the extent that failure to be in compliance therewith or to have all such licenses, authorizations, consents and approvals could not reasonably be expected to have a Material Adverse Effect.

8.3 No Violation. The execution, delivery and performance by any Credit Party of the Credit Documents to which it is a party and compliance with the terms and provisions hereof or thereof (i) will not contravene any material applicable provision of any material Applicable Law of any Governmental Authority, (ii) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or give rise to any right to accelerate or to require the prepayment, repurchase or redemption of any obligation under, or result in the creation or imposition of (or the obligation to create or impose) any Lien upon any of the property or assets of any of Holdings, the Borrower or any of the Restricted Subsidiaries (other than Liens created under the Credit Documents) pursuant to, the terms of any material indenture, loan agreement, lease agreement, mortgage or deed of trust or any other Contractual Obligation to which Holdings, the Borrower or any of their Restricted Subsidiaries is a party or by which they or any of their property or assets is bound, except to the extent that any such conflict, breach, contravention, default, creation or imposition could not reasonably be expected to result in a Material Adverse Effect or (iii) violate any provision of the Organizational Documents of Holdings, the Borrower or any of their Restricted Subsidiaries.

8.4 Litigation. There are no actions, suits, investigations or proceedings (including Environmental Claims) pending or, to the knowledge of Holdings or the Borrower, threatened with respect to Holdings, the Borrower, or any of the Restricted Subsidiaries that (a) involve any of the Credit Documents or (b) could reasonably be expected to result in a Material Adverse Effect.

8.5 Margin Regulations.

(a) None of Holdings, the Borrower or any of their Restricted Subsidiaries is engaged and none of such entities will engage, principally in the business of purchasing or carrying margin stock (within the meaning of Regulation U of the Board), or extending credit for the purpose of purchasing or carrying margin stock.

(b) Neither the making of any Loan hereunder nor the use of the proceeds thereof will violate the provisions of Regulation T, Regulation U or Regulation X of the Board.

8.6 Governmental Approvals. No order, consent, approval, license, authorization, or validation of, or filing, recording or registration with, or exemption by, any Governmental Authority or any other Person is required to authorize or is required in connection with (a) the execution, delivery and performance of any Credit Document or (b) the legality, validity, binding effect or enforceability of any Credit Document, except, in the case of either clause (a) or (b), (i) such orders, consents, approvals, licenses, authorizations, validations, filings, recordings, registrations or exemptions as have been obtained or made and are in full force and effect, (ii) filings and recordings in respect of Liens created pursuant to the Security Documents and (iii) such orders, consents, approvals, licenses, authorizations, validations, filings, recordings, registrations or exemptions to the extent that failure to so receive could not reasonably be expected to have a Material Adverse Effect.



8.7 Investment Company Act. None of the Credit Parties is or is required to be registered as an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

8.8 True and Complete Disclosure. None of the written information or written data (taken as a whole) heretofore or contemporaneously furnished by Holdings, the Borrower, any of their respective Subsidiaries or any of their respective authorized representatives to any Agent or any Lender on or before the Effective Date (including all information contained in the Credit Documents) for purposes of or in connection with this Agreement or any transaction contemplated herein contained any untrue statement of material fact or omitted to state any material fact necessary to make such information and data (taken as a whole) not materially misleading at such time (after giving effect to all supplements so furnished prior to such time) in light of the circumstances under which such information or data was furnished; it being understood and agreed that for purposes of this Section 8.8, such information and data shall not include projections (including financial estimates, forecasts and other forward-looking information), pro forma financial information or information of a general economic or industry specific nature.

8.9 Financial Condition; Financial Statements. The Historical Financial Statements present fairly in all material respects the financial position and results of operations of the Borrower and its Subsidiaries at the respective dates of such information and for the respective periods covered thereby subject, in the case of the unaudited financial information, to changes resulting from audit, normal year end audit adjustments and the absence of footnotes. The Historical Financial Statements have been prepared in accordance with GAAP consistently applied except to the extent provided in the notes thereto. There has been no Material Adverse Effect since December 31, 2011.

8.10 Tax Returns and Payments, etc. Except for failures that could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (a) Holdings, the Borrower and each of the Restricted Subsidiaries have filed all federal income tax returns and all other tax returns, domestic and foreign, required to be filed by them and have paid all taxes and assessments payable by them that have become due, other than those not yet delinquent or being contested in good faith and by proper proceedings if it has maintained adequate reserves (in the good faith judgment of the management of the Borrower) with respect thereto in accordance with GAAP and (b) each of Holdings, the Borrower, and the Restricted Subsidiaries have paid, or have provided adequate reserves (in the good faith judgment of the management of the Borrower) in accordance with GAAP for the payment of, all federal, state and foreign income taxes applicable for all prior fiscal years and for the current fiscal year to the Effective Date.

8.11 Compliance with ERISA. Except to the extent that a breach of any of the representations, warranties or agreements in this Section 8.11 would not result, individually or in the aggregate, in an amount of liability that would be reasonably likely to have a Material Adverse Effect, (a) each Pension Plan is in compliance with ERISA, the Code and any

Applicable Law; (b) no Reportable Event has occurred (or is reasonably likely to occur); (c) no Pension Plan or Multiemployer Plan is insolvent or in reorganization (or is reasonably likely to be insolvent or in reorganization), and no written notice of any such insolvency or reorganization has been given to any of Holdings, the Borrower, any of the Restricted Subsidiaries or any ERISA Affiliate; (d) none of Holdings, the Borrower, any of the Restricted Subsidiaries or any ERISA Affiliate has failed to satisfy the minimum funding standard under Section 412 of the Code and Section 302 of ERISA with respect to any Pension Plan, or has otherwise failed to make a required contribution to a Pension Plan or Multiemployer Plan, whether or not waived (or is reasonably likely to fail to satisfy such minimum funding standard or make such required contribution); (e) no Pension Plan is, or is expected to be, in at-risk status within the meaning of Section 430 of the Code or Section 303 of ERISA and no Multiemployer Plan is, or is expected to be, in endangered or critical status within the meaning of Section 432 of the Code or Section 305 of ERISA; (f) none of Holdings, the Borrower, any of the Restricted Subsidiaries or any ERISA Affiliate has incurred (or is reasonably likely to incur) any liability to or on account of a Pension Plan or Multiemployer Plan, as applicable, pursuant to Section 409, 502(i), 502(l), 515, 4062, 4063, 4064, 4069, 4201 or 4204 of ERISA or Section 4971 or 4975 of the Code or has been notified in writing that it will incur any liability under any of the foregoing Sections with respect to any Pension Plan or Multiemployer Plan; (g) no proceedings have been instituted (or are reasonably likely to be instituted) to terminate or to reorganize any Pension Plan or Multiemployer Plan or to appoint a trustee to administer any Pension Plan or Multiemployer Plan, and no written notice of any such proceedings has been given to any of Holdings, the Borrower, any of the Restricted Subsidiaries or any ERISA Affiliate; (h) the conditions for imposition of a lien that could be imposed under the Code or ERISA on the assets of any of Holdings, the Borrower, any of the Restricted Subsidiaries or any ERISA Affiliate with respect to a Pension Plan do not exist (or are not reasonably likely to exist) nor has Holdings, the Borrower, any of the Restricted Subsidiaries or any ERISA Affiliate been notified in writing that such a lien will be imposed on the assets of any of Holdings, the Borrower, any of the Restricted Subsidiaries or any ERISA Affiliate on account of any Pension Plan; (i) each Foreign Plan is in compliance with Applicable Laws (including funding requirements under such Applicable Laws); and (j) no proceedings have been instituted to terminate any Foreign Plan. No Pension Plan has an Unfunded Current Liability that would, individually or when taken together with any other liabilities referenced in this Section 8.11, be reasonably likely to have a Material Adverse Effect. With respect to Multiemployer Plans, the representations and warranties in this Section 8.11, other than any made with respect to (a) liability under Section 4201 or 4204 of ERISA, (b) any contributions required to be made, or (c) liability for termination or reorganization of such Multiemployer Plans under ERISA, are made to the best knowledge of the Borrower.

8.12 Subsidiaries. On the Effective Date, Holdings does not have any Subsidiaries other than the Subsidiaries listed on Schedule 8.12. Schedule 8.12 sets forth, as of the Effective Date, the name and the jurisdiction of organization of each Subsidiary and, as to each Subsidiary, the percentage of each class of Capital Stock owned by any Credit Party and the designation of such Subsidiary as a Guarantor, a Restricted Subsidiary, an Unrestricted Subsidiary, a Specified Subsidiary or an Immaterial Subsidiary. The Borrower does not own or hold, directly or indirectly, any Capital Stock of any Person other than such Subsidiaries and Investments permitted by Section 10.5.

8.13 Intellectual Property. Each of Holdings, the Borrower and each of the Restricted Subsidiaries own or have a valid license or other right to use, all Intellectual Property, free and clear of all Liens (other than Liens permitted by Section 10.2), that are necessary for the operation of their respective businesses as currently conducted, except where the failure to have any such title, license or right could not reasonably be expected to have a Material Adverse Effect. Except as could not reasonably be expected to have a Material Adverse Effect, (i) to the knowledge of Holdings and the Borrower, the operation of the Borrower's and the Restricted Subsidiaries' business as currently conducted and the use of Intellectual Property in connection therewith do not conflict with, infringe upon, misappropriate, or otherwise violate any Intellectual Property owned by any other Person, and (ii) no material claim or litigation regarding any Intellectual Property now employed by the Borrower or any of the Restricted Subsidiaries is pending or, to the knowledge of Holdings and the Borrower, threatened against the Borrower or any of the Restricted Subsidiaries. Except as could not reasonably be expected to have a Material Adverse Effect, no Intellectual Property owned by the Borrower or a Restricted Subsidiary and necessary for the operation of the Borrower's or any Restricted Subsidiary's business is currently subject to any outstanding consent, settlement, decree, order, injunction, judgment or ruling restricting the use of such Intellectual Property.

8.14 Environmental Laws. (a) Except as could not reasonably be expected to have a Material Adverse Effect, (i) Holdings, the Borrower and each of the Restricted Subsidiaries are and have been in compliance with all Environmental Laws (including having obtained and complied with all permits required under Environmental Laws for their current operations); (ii) to the knowledge of Holdings or the Borrower, there are no facts, circumstances or conditions arising out of or relating to the operations of Holdings, the Borrower or any of the Restricted Subsidiaries or any currently or formerly owned, operated or leased Real Property that could reasonably be expected to result in Holdings, the Borrower or any of the Restricted Subsidiaries incurring liability under any Environmental Law; and (iii) none of Holdings, the Borrower or any of the Restricted Subsidiaries has become subject to any pending or, to the knowledge of Holdings or the Borrower, threatened Environmental Claim or, to the knowledge of the Borrower, any other liability under any Environmental Law.

(b) None of Holdings, the Borrower or any of the Restricted Subsidiaries has treated, stored, transported, Released or disposed of Hazardous Materials at or from any currently or formerly owned, operated or leased Real Property in a manner that could reasonably be expected to have a Material Adverse Effect.

8.15 Properties, Assets and Rights. (a) As of the Effective Date and as of the date of each Credit Event thereafter, each of Holdings, the Borrower and each of the Restricted Subsidiaries has good and marketable title to, valid leasehold interest in, or easements, licenses or other limited property interests in, all properties (other than Intellectual Property) that are necessary for the operation of their respective businesses as currently conducted, except where the failure to have such good title or interest in such property could not reasonably be expected to have a Material Adverse Effect. As of the Effective Date, Holdings, the Borrower and each of its Restricted Subsidiaries possess or have the right to use, under contract or otherwise, all assets and rights that are material to the operation of their respective businesses as currently conducted, except where the failure to possess or have such right could not reasonably be expected to have a Material Adverse Effect. None of such properties and assets is subject to

any Lien, except for Liens permitted under Section 10.2 and minor defects in title that do not materially interfere with any Credit Party's and their Restricted Subsidiaries' ability to conduct its business or to utilize such property for its intended purposes.

(b) Set forth on Schedule 8.15 hereto is a complete and accurate list of all Real Property owned in fee by the Credit Parties on the Effective Date, showing as of the Effective Date the street address, county or other relevant jurisdiction, state and record owner thereof.

8.16 Compliance With Laws. Each of Holdings, the Borrower and its Restricted Subsidiaries is in compliance with all Applicable Laws (including, without limitation, the FCPA) applicable to it or its property except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

8.17 Solvency. On the Effective Date after giving pro forma effect to the transactions contemplated hereby including the Transactions, the Credit Parties and their Subsidiaries on a consolidated basis are Solvent.

8.18 Employee Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect, (a) there are no strikes or other labor disputes against any of Holdings, the Borrower or any Restricted Subsidiary pending or, to the knowledge of any of Holdings, the Borrower, threatened; (b) hours worked by and payment made to employees of any of Holdings, the Borrower and its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other Applicable Laws dealing with such matters; and (c) all payments due from any of Holdings, the Borrower and its Restricted Subsidiaries on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant party.

8.19 Anti-Terrorism Laws, Etc. Except to the extent as could not reasonably be expected to have a Material Adverse Effect, no Credit Party is in violation of any Applicable Law relating to terrorism or money laundering ("Anti-Terrorism Laws"), including (i) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, (ii) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended), and any other enabling legislation or executive order relating thereto, and (iii) the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "PATRIOT Act"). Holdings, the Borrower and its Subsidiaries have instituted and maintain policies and procedures designed to comply with such Anti-Terrorism Laws. No part of the proceeds of any Loans will be used, directly or, to the Borrower's knowledge, indirectly, by Holdings, the Borrower or any of their Subsidiaries for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the FCPA.

8.20 No Default. No Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Credit Document.

8.21 OFAC. No Credit Party (i) is a person on the list of “Specially Designated Nationals and Blocked Persons” published by OFAC (the “SDN List”) or subject to the limitations or prohibitions under any other material OFAC regulation, action or executive order, (ii) engages in any dealings or transactions prohibited by any material OFAC regulation, action or executive order or (iii) except as otherwise authorized or permitted by OFAC, will use any proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to any Person for the purpose of financing the activities or business of or with any Person or in any country or territory that, at the time of funding or facilitation, is on the SDN List.

#### SECTION 9. Affirmative Covenants

The Borrower hereby covenants and agrees that on the Effective Date and thereafter, until the Total Commitment and all Letters of Credit have terminated (unless such Letters of Credit have been Cash Collateralized on the terms and conditions set forth in Section 3.8 hereof) and the Loans and Unpaid Drawings, together with interest, fees and all other Obligations incurred hereunder (other than Hedging Obligations under Secured Hedging Agreements, Cash Management Obligations under Secured Cash Management Agreements and contingent indemnification obligations), are paid in full:

9.1 Information Covenants. The Borrower will furnish to the Administrative Agent for prompt further distribution to each Lender:

(a) Annual Financial Statements. As soon as available and in any event on or before the date on which such financial statements are required to be filed with the SEC (or, if such financial statements are not required to be filed with the SEC, on or before the date that is 90 days after the end of each such fiscal year), the consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such fiscal year, and the related consolidated statement of operations and cash flows for such fiscal year, setting forth comparative consolidated figures for the preceding fiscal year, all in reasonable detail and prepared in accordance with GAAP and, except with respect to such reconciliation, certified by independent registered public accountants of recognized national standing whose opinion shall not be qualified as to the scope of audit or as to the status of the Borrower and its consolidated Subsidiaries as a going concern or like qualification or exception (other than with respect to, or resulting solely from (x) any potential inability to satisfy the covenants in Section 10.9 or Section 10.10 on a future date or in a future period, (y) with respect to the Term Loans, an actual inability to satisfy the covenants in Section 10.9 or Section 10.10 or (z) an upcoming maturity of any Credit Facility or Permitted Additional Debt occurring within one year from the time such opinion is delivered) together, in any event with a certificate of such accounting firm stating that in the course of its regular audit of the business of the Borrower and its consolidated Subsidiaries, which audit was conducted in accordance with generally accepted auditing standards, such accounting firm has obtained no knowledge of any Event of Default relating to Section 10.9 or 10.10 that has occurred and is continuing or, if in the opinion of such accounting firm such an Event of Default has occurred and is continuing, a statement as to the nature thereof. Notwithstanding the foregoing, the obligations in this Section 9.1(a) may be satisfied with respect to financial information of the Borrower and its consolidated Subsidiaries by furnishing (A) the applicable financial statements of Holdings (or any Parent Entity of Holdings) or (B) the Borrower’s or Holdings’ (or any Parent Entity thereof), as applicable, Form 10-K filed with the SEC; provided that, with

respect to each of clauses (A) and (B), (i) to the extent such information relates to Holdings (or such Parent Entity), if and for so long as Holdings (or such Parent Entity) shall have more than de minimis operations separate and apart from its ownership in the Borrower and the Borrower's Subsidiaries, then the financial statements shall be accompanied by selected financial metrics (in the Borrower's sole discretion and which need not be audited) that show the differences between the information relating to Holdings (or such Parent Entity) and any of its Subsidiaries other than the Borrower and the Borrower's Subsidiaries, on the one hand, and the information relating to the Borrower and the Borrower's Subsidiaries on a standalone basis, on the other hand and (ii) to the extent such information is in lieu of information required to be provided under the first sentence of this Section 9.1(a), such materials are accompanied by an opinion of an independent registered public accounting firm of recognized national standing, which opinion shall not be qualified as to the scope of audit or as to the status of Holdings (or such Parent Entity) and its consolidated Subsidiaries as a going concern or like qualification or exception or any qualification or exception as to the scope of such audit (other than with respect to, or resulting solely from (x) any potential inability to satisfy the covenants in Section 10.9 or Section 10.10 on a future date or in a future period, (y) with respect to the Term Loans, an actual inability to satisfy the covenants in Section 10.9 or Section 10.10 or (z) an upcoming maturity of any Credit Facility or Permitted Additional Debt occurring within one year from the time such opinion is delivered). In addition, together with the financial statements required pursuant to this Section 9.1(a), if the Borrower is no longer a public reporting company, the Borrower shall deliver a customary "management's discussion and analysis of financial condition and results of operations" with respect to the periods covered by such financial statements.

(b) Quarterly Financial Statements. As soon as available and in any event on or before the date on which such financial statements are required to be filed with the SEC with respect to each of the first three quarterly accounting periods in each fiscal year of the Borrower (or, if such financial statements are not required to be filed with the SEC, on or before the date that is 45 days after the end of each fiscal quarter), the consolidated balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such quarterly period and the related consolidated statement of operations for such quarterly accounting period and for the elapsed portion of the fiscal year ended with the last day of such quarterly period, and the related consolidated statement of cash flows for the elapsed portion of the fiscal year ended with the last day of such quarterly period, and setting forth comparative consolidated figures for the related periods in the prior fiscal year or, in the case of such consolidated balance sheet, for the last day of the prior fiscal year, all in reasonable detail and all of which shall be certified by an Authorized Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations, shareholders' equity and cash flows of the Borrower and its consolidated Subsidiaries in accordance with GAAP, subject to changes resulting from audit and normal year-end audit adjustments and to the absence of footnotes. Notwithstanding the foregoing, the obligations in this Section 9.1(b) may be satisfied with respect to financial information of the Borrower and its consolidated Subsidiaries by furnishing (A) the applicable financial statements of Holdings (or any Parent Entity of Holdings) or (B) the Borrower's or Holdings' (or any Parent Entity thereof), as applicable, Form 10-Q filed with the SEC; provided, that, with respect to each of clauses (A) and (B), to the extent such information relates to Holdings (or such Parent Entity), if and for so long as Holdings (or such Parent Entity) shall have more than de minimis operations separate and apart from its ownership in the Borrower and the Borrower's Subsidiaries, then the financial statements shall be accompanied by selected financial metrics (in

the Borrower's sole discretion and which need not be audited) that show the differences between the information relating to Holdings (or such Parent Entity) and any of its Subsidiaries other than the Borrower and the Borrower's Subsidiaries, on the one hand, and the information relating to the Borrower and the Borrower's Subsidiaries on a standalone basis, on the other hand. In addition, together with the financial statements required pursuant to this Section 9.1(b), if the Borrower is no longer a public reporting company, the Borrower shall deliver a customary "management's discussion and analysis of financial condition and results of operations" with respect to the periods covered by such financial statements.

(c) Budgets. At the time of delivery by the Borrower of the financial statements required under Section 9.1(a), beginning with the 2013 fiscal year, a budget of the Borrower and its Restricted Subsidiaries in reasonable detail for that fiscal year as customarily prepared by management of the Borrower for its internal use consistent in scope with the financial statements provided pursuant to Section 9.1(a), setting forth the principal assumptions upon which such budget is based.

(d) Officer's Certificates. At the time of the delivery of the financial statements provided for in Sections 9.1(a) and 9.1(b), a certificate of an Authorized Officer of the Borrower to the effect that no Default or Event of Default exists or, if any Default or Event of Default does exist, specifying the nature and extent thereof, which certificate shall set forth (i) the calculations required to establish whether the Borrower was in compliance with the provisions of Sections 10.9 and 10.10 as at the end of such fiscal year or period, as the case may be, beginning with the first full fiscal quarter ended after the Effective Date, (ii) a specification of any change in the identity of the Restricted Subsidiaries, the Unrestricted Subsidiaries, the Specified Subsidiaries, the Immaterial Subsidiaries and the Foreign Subsidiaries as at the end of such fiscal year or period, as the case may be, from the Restricted Subsidiaries, the Unrestricted Subsidiaries, the Specified Subsidiaries, the Immaterial Subsidiaries and the Foreign Subsidiaries, respectively, provided to the Lenders on the Effective Date or the most recent fiscal year or period, as the case may be, (iii) the then applicable Applicable Margin and commitment fees, and (iv) the Remaining Dividends Amount as at the end of such fiscal year or quarter period, as the case may be. At the time of the delivery of the financial statements provided for in Section 9.1(a), beginning with the fiscal year ended December 31, 2012, a certificate of an Authorized Officer of the Borrower setting forth in reasonable detail the calculation of Excess Cash Flow, the Available Amount and the Available Equity Amount as at the end of the fiscal year to which such financial statements relate and the information required pursuant to Section 1 and Section 2 of the Perfection Certificate, or confirming that there has been no change in such information since the Effective Date or the date of the most recent certificate delivered pursuant to this Section 9.1(d), as the case may be.

(e) Notice of Default or Litigation. Promptly after an Authorized Officer of the Borrower or any of its Restricted Subsidiaries obtains actual knowledge thereof or should have obtained such knowledge thereof through customary due diligence, notice of (i) the occurrence of any event that constitutes a Default or an Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto, (ii) any litigation or governmental proceeding pending against the Borrower or any of its Restricted Subsidiaries that could reasonably be expected to result in a Material Adverse Effect and (iii) if the Borrower is no longer a public reporting company, any Material Adverse Effect.

(f) Environmental Matters. Promptly after obtaining knowledge of any one or more of the following environmental matters, unless such environmental matters could not, individually or when aggregated with all other such matters, be reasonably expected to result in a Material Adverse Effect, notice of:

(i) any pending or threatened Environmental Claim against Holdings, the Borrower or any of the Restricted Subsidiaries or any Real Property;

(ii) any condition or occurrence on any Real Property that (x) results in noncompliance by Holdings, the Borrower or any of the Restricted Subsidiaries with any applicable Environmental Law or (y) could reasonably be anticipated to form the basis of an Environmental Claim against Holdings, the Borrower or any of the Restricted Subsidiaries or any Real Property;

(iii) any condition or occurrence on any Real Property that could reasonably be anticipated to cause such Real Property to be subject to any restrictions on the ownership, occupancy, use or transferability of such Real Property under any Environmental Law; and

(iv) the taking of any removal or remedial action in response to the actual or alleged Release or presence of any Hazardous Material on any Real Property.

All such notices shall describe in reasonable detail the nature of the claim, investigation, condition, occurrence or removal, remedial action and the response thereto.

(g) Other Information. (i) Promptly upon filing thereof, (x) copies of any filings (including on Form 10-K, 10-Q or 8-K) or registration statements with, and reports to, the SEC or any analogous Governmental Authority in any relevant jurisdiction by Holdings (or any Parent Entity thereof), the Borrower or any of the Restricted Subsidiaries (other than amendments to any registration statement (to the extent such registration statement, in the form it becomes effective, is delivered to the Administrative Agent for further delivery to the Lenders), exhibits to any registration statement and, if applicable, any registration statements on Form S-8) and (y) copies of all financial statements, proxy statements, notices and reports that the Borrower or any of the Restricted Subsidiaries shall send to the holders of any publicly issued debt of the Borrower and/or any of the Restricted Subsidiaries in their capacity as such holders (in each case to the extent not theretofore delivered to the Administrative Agent for further delivery to the Lenders pursuant to this Agreement) and (ii) with reasonable promptness, but subject to the limitations set forth in the last sentence of Section 9.2 and Section 13.16, such other information (financial or otherwise) as the Administrative Agent on its own behalf or on behalf of any Lender may reasonably request in writing from time to time.

(h) Pro Forma Adjustment Certificate. Not later than any date on which financial statements are delivered with respect to any four-quarter period in which a Pro Forma Adjustment is made, a certificate of an Authorized Officer of the Borrower setting forth the amount of such Pro Forma Adjustment and, in reasonable detail, the calculations and basis therefor.



(i) Unrestricted Subsidiaries. For any period for which the Unrestricted Subsidiaries, taken together, are reasonably anticipated to have had revenues or total assets in an amount that is equal to or greater than 5.0% of the consolidated revenues or total assets, as applicable, of the Borrower and its Restricted Subsidiaries, simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 9.1(a) and 9.1(b) above, the related consolidating financial statements reflecting the adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) (which may be in footnote form only) from such consolidated financial statements.

Documents required to be delivered pursuant to Sections 9.1(a), 9.1(b) and 9.1(g)(i) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed in Schedule 13.2; or (ii) on which such documents are transmitted by electronic mail to the Administrative Agent; provided that: (A) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (B) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Joint Lead Arrangers will make available to the Lenders and the Letter of Credit Issuers materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on Debt Domain, IntraLinks, Syndtrak or another similar electronic system (the "Platform") and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that wish to receive only information that (i) is publicly available or (ii) is not material with respect to Borrower and its Subsidiaries or its or their respective securities for purposes of United States federal and state securities laws (collectively, the "Public Side Information") and who may be engaged in investment and other market related activities with respect to the Borrower, its Subsidiaries or its or their respective securities (each, a "Public Lender"). Before distribution of any Borrower Materials to Lenders, the Borrower agrees to identify that portion of the Borrower Materials that may be distributed to the Public Lenders as "Public Side Information," which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof (it being understood that if the Borrower is unable to reasonably determine if any such information is or is not Public Side Information the Borrower shall not be obligated to mark such information as "PUBLIC"). By marking Borrower Materials as "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent, the Joint Lead Arrangers, the Letter of Credit Issuers and the Lenders to treat such Borrower Materials as containing only Public Side Information. All Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information." The Administrative Agent and the Joint Lead Arrangers shall treat the Borrower Materials that are not marked "PUBLIC" as being suitable only for posting, and shall only post such Borrower Materials, on a portion of the Platform not designated "Public Side Information".

9.2 Books, Records and Inspections. The Borrower will, and will cause each of the Restricted Subsidiaries to, maintain proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of Holdings, the Borrower or such Restricted Subsidiary, as the case may be. Holdings and the Borrower will, and will cause each of the Restricted Subsidiaries to, permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties (to the extent it is within such Person's control to permit such inspection), to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided that, excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent and the Lenders under this Section 9.2 and the Administrative Agent shall not exercise such rights more often than once during any calendar year absent the existence of an Event of Default at the Borrower's expense; and provided, further, that when an Event of Default exists, the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. Notwithstanding anything to the contrary in Section 9.1(f)(ii) or this Section 9.2, none of Holdings, the Borrower or any Restricted Subsidiary will be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Applicable Law or any binding agreement or (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product.

9.3 Maintenance of Insurance. The Borrower will, and will cause each of the Restricted Subsidiaries to, at all times maintain in full force and effect, with insurance companies that the Borrower believes (in the good faith judgment of the management of the Borrower) are financially sound and responsible at the time the relevant coverage is placed or renewed, insurance in at least such amounts (after giving effect to any self-insurance which the Borrower believes (in the good faith judgment of management of the Borrower) is reasonable and prudent in light of the size and nature of its business) and against at least such risks (and with such risk retentions) as are usually insured against in the same general area by companies engaged in businesses similar to those engaged by the Borrower and the Restricted Subsidiaries; and will furnish to the Administrative Agent for further delivery to the Lenders, upon written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried. The Collateral Agent, for the benefit of the Secured Parties shall be the additional insured on any such liability insurance and the Collateral Agent, for the benefit of the Secured Parties, shall be the additional loss payee under any such casualty insurance. If any portion of any Mortgaged Property at any time is located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with

respect to which flood insurance has been made available under the Flood Insurance Laws, then the Borrower shall, or shall cause the applicable Credit Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer (determined at the time such insurance is obtained), flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Collateral Agent, for further posting by the Collateral Agent to the Lenders on the Platform, evidence of such compliance.

9.4 Payment of Taxes. The Borrower will pay and discharge, and will cause each of the Restricted Subsidiaries to pay and discharge, all taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, prior to the date on which such payments become overdue, and all lawful claims in respect of taxes imposed, assessed or levied that, if unpaid, could reasonably be expected to become a Lien upon any properties of the Borrower or any of the Restricted Subsidiaries, except to the extent that the failure to do so could not reasonably be expected to, individually or in the aggregate, result in a Material Adverse Effect; provided that none of the Borrower or any of the Restricted Subsidiaries shall be required to pay any such tax, assessment, charge, levy or claim that is being diligently contested in good faith and by proper proceedings if it has maintained adequate reserves (in the good faith judgment of the management of the Borrower) with respect thereto in accordance with GAAP.

9.5 Consolidated Corporate Franchises. The Borrower will do, and will cause each of the Restricted Subsidiaries to do, or cause to be done, all things necessary to preserve and keep in full force and effect its existence, corporate rights and authority, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect; provided that the Borrower and the Restricted Subsidiaries may consummate any transaction permitted under Section 10.3, 10.4 or 10.5.

9.6 Compliance with Statutes. The Borrower will, and will cause each of the Restricted Subsidiaries to, comply with all Applicable Laws (including Environmental Laws, ERISA, the PATRIOT Act, other Anti-Terrorism Laws and FCPA, and permits required thereunder), except to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect.

9.7 ERISA. Promptly after the Borrower or any of the Restricted Subsidiaries or any ERISA Affiliate knows or has reason to know of the occurrence of any of the following events that, individually or in the aggregate (including in the aggregate such events previously disclosed or exempt from disclosure hereunder, to the extent the liability therefor remains outstanding), would be reasonably likely to have a Material Adverse Effect, the Borrower will deliver to the Administrative Agent a certificate of an Authorized Officer or any other senior officer of the Borrower setting forth details as to such occurrence and the action, if any, that the Borrower, such Restricted Subsidiary or such ERISA Affiliate is required or proposes to take, together with any notices (required, proposed or otherwise) given to or filed with or by the Borrower, such Restricted Subsidiary, such ERISA Affiliate, the PBGC, or a Multiemployer Plan administrator (provided that if such notice is given by the Multiemployer Plan administrator, it is given to any of the Borrower, or any of the Restricted Subsidiaries or any ERISA Affiliates thereof); that a Reportable Event has occurred; that a failure to satisfy the

minimum funding standard under Section 412 of the Code has occurred or an application is to be made to the Secretary of the Treasury for a waiver or modification of the minimum funding standard (including any required installment payments) or an extension of any amortization period under Section 412 of the Code with respect to a Pension Plan; that a Pension Plan having an Unfunded Current Liability has been or is to be terminated under Title IV of ERISA (including the giving of written notice thereof); that a Pension Plan has an Unfunded Current Liability that has or will result in a Lien under ERISA or the Code; that proceedings will be or have been instituted to terminate a Pension Plan having an Unfunded Current Liability (including the giving of written notice thereof); that a proceeding has been instituted against the Borrower, a Restricted Subsidiary thereof or an ERISA Affiliate pursuant to Section 515 of ERISA to collect a delinquent contribution to a Multiemployer Plan; that the PBGC has notified the Borrower, any Restricted Subsidiary thereof or any ERISA Affiliate of its intention to appoint a trustee to administer any Pension Plan; that the Borrower, any Restricted Subsidiary thereof or any ERISA Affiliate has failed to make a required installment or other payment pursuant to Section 412 of the Code with respect to a Pension Plan or the failure to make any required contribution or payment to a Multiemployer Plan; that a determination has been made that any Pension Plan is in at-risk status within the meaning of Section 430 of the Code or Section 303 of ERISA or any Multiemployer Plan is in endangered or critical status within the meaning of Section 432 of the Code or Section 305 of ERISA; or that the Borrower, any Restricted Subsidiary thereof or any ERISA Affiliate has incurred (or has been notified in writing by a Multiemployer Plan administrator that it will incur) any liability (including any contingent or secondary liability) to or on account of a Plan pursuant to Section 409, 502(i), 502(l), 515, 4062, 4063, 4064, 4069, 4201 or 4204 of ERISA or Section 4971 or 4975 of the Code; the termination of any Foreign Plan has occurred; or that any non-compliance with Applicable Law (including funding requirements under such Applicable Law) for any Foreign Plan has occurred.

9.8 Good Repair. The Borrower will, and will cause each of the Restricted Subsidiaries to, ensure that its properties and equipment used or useful in its business in whomsoever's possession they may be to the extent that it is within the control of such party to cause same, are kept in good repair, working order and condition, normal wear and tear excepted, and that from time to time there are made in such properties and equipment all needful and proper repairs, renewals, replacements, extensions, additions, betterments and improvements thereto, to the extent and in the manner customary for companies in the industry in which the Borrower and the Restricted Subsidiaries conduct business and consistent with third party leases, except in each case to the extent the failure to do so could not be reasonably expected to have a Material Adverse Effect.

9.9 Transactions with Affiliates. The Borrower will conduct, and cause each of the Restricted Subsidiaries to conduct, all transactions with any of its Affiliates on terms that are substantially as favorable to the Borrower or such Restricted Subsidiary as it would obtain in a comparable arm's-length transaction with a Person that is not an Affiliate; provided that the foregoing restrictions shall not apply to:

(a) such transactions that are made on terms substantially as favorable to the Borrower or such Restricted Subsidiary as would be obtainable by the Borrower or such Restricted Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate,

- (b) if such transaction is among the Borrower and one or more Restricted Subsidiaries or any entity that becomes a Restricted Subsidiary as a result of such transaction,
- (c) the payment of Transaction Expenses and the consummation of the Transactions,
- (d) the issuance of Capital Stock of any Parent Entity of the Borrower to the management of such Parent Entity, the Borrower or any of its Subsidiaries in connection with the Transactions or pursuant to arrangements described in clause (m) below,
- (e) the payment of indemnities and reasonable expenses incurred by the Sponsors and their Affiliates in connection with any services provided to, or the monitoring or management of their investment in, any Parent Entity (but only to the extent relating to the Borrower or any of its Restricted Subsidiaries), the Borrower or any of its Restricted Subsidiaries,
- (f) equity issuances, repurchases, retirements, redemptions or other acquisitions or retirements of Capital Stock by any Parent Entity of the Borrower or the Borrower permitted under Section 10.6,
- (g) loans, guarantees and other transactions by any Parent Entity or the Borrower, the Borrower and the Restricted Subsidiaries to the extent permitted under Section 10,
- (h) employment and severance arrangements and health, disability and similar insurance or benefit plans between any Parent Entity of the Borrower, the Borrower and the Restricted Subsidiaries and their respective directors, officers, employees (including management and employee benefit plans or agreements, subscription agreements or similar agreements pertaining to the repurchase of Capital Stock pursuant to put/call rights or similar rights with current or former employees, officers or directors and stock option or incentive plans and other compensation arrangements) in the ordinary course of business or as otherwise approved by the Board of Directors of any Parent Entity of the Borrower or the Borrower,
- (i) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, directors, managers, consultants, officers and employees of any Parent Entity of the Borrower, the Borrower and the Restricted Subsidiaries in the ordinary course of business to the extent attributable to the ownership or operation of Holdings, the Borrower and the Restricted Subsidiaries,
- (j) transactions pursuant to permitted agreements in existence on the Effective Date and set forth on Schedule 9.9 or any amendment thereto to the extent such an amendment is not adverse, taken as a whole, to the Lenders in any material respect,
- (k) Dividends permitted under Section 10.6,
- (l) customary payments (including reimbursement of fees and expenses) by the Borrower and any Restricted Subsidiaries to the Sponsors made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities (including in connection with acquisitions or divestitures, whether or not consummated), which

payments are approved by the majority of the members of the Board of Directors or a majority of the disinterested members of the Board of Directors of Holdings or the Borrower (or any Parent Entity thereof), in good faith,

(m) any issuance of Capital Stock, or other payments, awards or grants in cash, securities, Capital Stock or otherwise pursuant to, or the funding of, employment arrangements, stock options and stock ownership plans approved by the Board of Directors of any Parent Entity of the Borrower or the Borrower, as the case may be,

(n) any purchase by a Parent Entity of the Borrower of the Capital Stock of the Borrower; provided that, to the extent required by Section 9.12, any Capital Stock of the Borrower so purchased shall be pledged to the Collateral Agent for the benefit of the Secured Parties pursuant to the Pledge Agreement,

(o) transactions with joint ventures for the purchase or sale of goods, equipment and services entered into in the ordinary course of business and in a manner consistent with prudent business practice followed by companies in the industry of the Borrower and its Subsidiaries or otherwise consistent with past practices, and

(p) payments by Holdings (or any Parent Entity thereof), the Borrower and the Restricted Subsidiaries pursuant to tax sharing agreements among Holdings (and any such parent), the Borrower and the Restricted Subsidiaries on customary terms.

9.10 End of Fiscal Years; Fiscal Quarters. The Borrower will, for financial reporting purposes, cause (a) each of its, and each of the Restricted Subsidiaries', fiscal years to end on December 31 of each year and (b) each of its, and each of the Restricted Subsidiaries', fiscal quarters to end on dates consistent with such fiscal year-end and the Borrower's past practice; provided that the Borrower may, upon written notice to the Administrative Agent, change the financial reporting convention specified above to any other financial reporting convention reasonably acceptable to the Administrative Agent, in which case the Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary in order to reflect such change in financial reporting.

9.11 Additional Guarantors and Grantors. Subject to any applicable limitations set forth in the Guarantee, the Security Agreement, the Pledge Agreement or any other Security Document, as applicable, the Borrower will cause (i) any direct or indirect Domestic Subsidiary of the Borrower (other than any Excluded Subsidiary) formed or otherwise purchased or acquired after the Effective Date (including pursuant to a Permitted Acquisition) and (ii) any Subsidiary of the Borrower that ceases to be an Excluded Subsidiary, in each case within 45 days of its formation, acquisition or cessation, as applicable (or such longer period as may be agreed to by the Administrative Agent) to execute (A) a supplement to each of the Guarantee, the Security Agreement and the Pledge Agreement, substantially in the form of Annex B, Exhibit 1 or Annex A, as applicable, to the respective agreement in order to become a Guarantor under the Guarantee, a grantor under the Security Agreement and a pledgor under the Pledge Agreement, (B) a joinder to the Intercompany Note, substantially in the form of Annex I thereto, and (C) a joinder agreement or such comparable documentation to each other applicable Security Document, substantially in the form annexed thereto, and, in each case, to take all actions required thereunder to perfect the Liens created thereunder.

9.12 Pledges of Additional Stock and Evidence of Indebtedness.

(a) Subject to any applicable limitations set forth in the Security Documents, as applicable, Holdings and the Borrower will pledge, and, if applicable, will cause each other Subsidiary Guarantor (or Person required to become a Subsidiary Guarantor pursuant to Section 9.11) to pledge, to the Collateral Agent for the benefit of the Secured Parties, (i) all the Capital Stock (other than any Excluded Capital Stock) of each Subsidiary owned by the Borrower or any Subsidiary Guarantor (or Person required to become a Subsidiary Guarantor pursuant to Section 9.11), in each case, formed or otherwise purchased or acquired after the Effective Date, pursuant to a supplement to the Pledge Agreement substantially in the form of Annex A thereto and, (ii) except with respect to intercompany Indebtedness, all evidences of Indebtedness for borrowed money in a principal amount in excess of \$5,000,000 (individually) that is owing to the Borrower or any Subsidiary Guarantor (or Person required to become a Subsidiary Guarantor pursuant to Section 9.11) (which shall be evidenced by a promissory note), in each case pursuant to a supplement to the Pledge Agreement substantially in the form of Annex A thereto.

(b) The Borrower agrees that all Indebtedness of the Borrower and each of its Restricted Subsidiaries that is owing to any Credit Party (or a Person required to become a Subsidiary Guarantor pursuant to Section 9.11), other than any such Indebtedness on the balance sheet of any Broker-Dealer Regulated Subsidiary that is subject to a note satisfactory in form to the Broker-Dealer Regulated Subsidiary's primary regulator, shall be evidenced by the Intercompany Note, which promissory note shall be required to be pledged to the Collateral Agent, for the benefit of the Secured Parties, pursuant to the Pledge Agreement.

9.13 Changes in Business. The Borrower and its Restricted Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by the Borrower and its Restricted Subsidiaries, taken as a whole, on the Effective Date and other business activities incidental or related to any of the foregoing.

9.14 Further Assurances. (a) Subject to the applicable limitations set forth in the Security Documents, Holdings and the Borrower will, and will cause each Subsidiary Guarantor to, execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents), which may be required under any Applicable Law, or which the Administrative Agent, the Collateral Agent or the Required Lenders may reasonably request, in order to grant, preserve, protect and perfect the validity and priority of the security interests created or intended to be created by the Security Documents, all at the expense of the Borrower and its Restricted Subsidiaries.

(b) Subject to any applicable limitations set forth in the Security Documents, any Mortgage and in Sections 9.11 and 9.12, if any assets (including any owned Real Property or improvements thereto (but not any leased Real Property) or any interest therein) with a Fair

Market Value (determined at the time of acquisition of such assets) in excess of \$15,000,000 (individually) are acquired by Holdings, the Borrower or any other Subsidiary Guarantor after the Effective Date (other than assets constituting Excluded Property (as defined in the Security Agreement) and other assets constituting Collateral under the Security Agreement that become subject to the Lien of the Security Agreement upon acquisition thereof or assets subject to a Lien granted pursuant to Section 10.2(c)), the Borrower will notify the Administrative Agent (who shall thereafter notify the Collateral Agent and the Lenders thereof) and will within 45 days of acquisition thereof (or, in the case of any Real Property, 90 days) (or, in each case, such longer period as may be agreed to by the Collateral Agent) cause such assets to be subjected to a Lien securing the applicable Obligations and will take, and cause the other Subsidiary Guarantors to take, such actions as shall be necessary or reasonably requested by the Administrative Agent or the Collateral Agent to grant and perfect such Liens consistent with the applicable requirements of the Security Documents, including actions described in this Section 9.14(b), all at the expense of the Credit Parties. Any Mortgage delivered to the Collateral Agent in accordance with this Section 9.14(b) shall be accompanied by (x) (i) for further delivery by the Collateral Agent to the Lenders, a completed "Life-of-Loan" Federal Emergency Management Agency standard flood hazard determination with respect to each Mortgaged Property (together with a notice about special flood hazard area status and flood disaster assistance duly executed by the Borrower and each Credit Party relating thereto) and, if applicable, evidence of flood insurance in compliance with the Flood Insurance Laws and otherwise in form and substance reasonably satisfactory to the Administrative Agent (such determination and evidence to be further delivered by the Collateral Agent to the Lenders); (ii) a policy or policies of title insurance or a marked unconditional binder thereof issued by a nationally recognized title insurance company insuring the Lien of such Mortgage as a valid Lien (with the priority described therein) on the Mortgaged Property described therein, free of any other Liens except as expressly permitted by Section 10.2, in such amounts and together with such endorsements and reinsurance as the Administrative Agent or the Collateral Agent may reasonably request and which are available at commercially reasonable rates in the jurisdiction where the applicable Mortgaged Property is located; and (iii) unless the Collateral Agent shall have otherwise agreed, either (A) a survey for which all necessary fees (where applicable) have been paid (1) prepared by a surveyor reasonably acceptable to the Collateral Agent, (2) dated or re-certificated not earlier than three months prior to the date of such delivery, (3) certified to the Administrative Agent, the Collateral Agent and the title insurance company issuing the title insurance policy for such Mortgaged Property pursuant to clause (ii), which certification shall be reasonably acceptable to the Collateral Agent and (4) complying with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by American Land Title Association, the American Congress on Surveying and Mapping and the National Society of Professional Surveyors in 2005 (except for such deviations as are acceptable to the Collateral Agent) or (B) coverage under the title insurance policy or policies referred to in clause (ii) above that does not contain a general exception for survey matters and which contains survey-related endorsements reasonably acceptable to the Collateral Agent, (y) a local opinion of counsel to the Borrower (or in the event a Subsidiary of the Borrower is the mortgagor, to such Subsidiary) with respect to the enforceability, perfection, due authorization, execution and delivery of the applicable Mortgages and any related fixture filings, and (z) such other documents as the Collateral Agent may reasonably request, in each case in form and substance reasonably satisfactory to the Collateral Agent.



(c) Notwithstanding anything herein to the contrary, if the Collateral Agent and the Borrower reasonably determine in writing that the cost of creating or perfecting any Lien on any property is excessive in relation to the benefits afforded to the Lenders thereby, then such property may be excluded from the Collateral for all purposes of the Credit Documents.

(d) Notwithstanding anything herein to the contrary, the Borrower shall not be required to take any actions outside the United States to (i) create any security interest in assets titled or located outside the United States or (ii) perfect or make enforceable any security interests in any Collateral.

9.15 Use of Proceeds. The proceeds of the Initial Term Loans and the Revolving Credit Loans, if any, borrowed on the Effective Date, together with the proceeds of the Senior Notes and cash on hand at the Borrower and its Subsidiaries, will be used on the Effective Date (i) to consummate the Refinancing and/or (ii) to pay the Transaction Expenses. After the Effective Date, Revolving Credit Loans available under the Revolving Credit Facility will be used for working capital requirements and other general corporate purposes of the Borrower or its Subsidiaries, including the financing of acquisitions permitted hereunder and other investments and dividends. The proceeds of the Incremental Term Loan Facility, the proceeds of any Revolving Credit Loans made pursuant to any Incremental Revolving Credit Commitment Increase and the proceeds of any Additional/Replacement Revolving Credit Loans made pursuant to any Additional/Replacement Revolving Credit Commitments may be used for working capital requirements and other general corporate purposes of the Borrower and its Subsidiaries including the financing of acquisitions permitted hereunder, other investments and dividends and other distributions permitted hereunder on account of the Capital Stock of the Borrower (or any Parent Entity thereof). The Borrower and its Subsidiaries will use the Letters of Credit issued under the Revolving Credit Facility on and after the Effective Date for working capital requirements and other general corporate purposes of the Borrower and its Subsidiaries, including the financing of acquisitions permitted hereunder and other investments.

9.16 Designation of Subsidiaries. The Board of Directors of the Borrower may at any time after the Effective Date designate any Restricted Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that (i) immediately before and after such designation on a Pro Forma Basis, no Event of Default shall have occurred and be continuing and (ii) immediately after giving effect to such designation, the Borrower and the Restricted Subsidiaries shall be in compliance, on a Pro Forma Basis, after giving effect to such designation, with the covenants set forth in Sections 10.9 and 10.10, as such covenants are recomputed as of the last day of the most recently ended Test Period under such Sections as if such designation occurred on the first day of such Test Period and (iii) the Borrower may not be designated as an Unrestricted Subsidiary. The designation of any Subsidiary as an Unrestricted Subsidiary after the Effective Date shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the Fair Market Value of the Borrower's investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Investment, Indebtedness or Liens of such Subsidiary existing at such time.

9.17 Post-Closing Covenant. The Borrower shall, and shall cause each Restricted Subsidiary of the Borrower to, comply with the terms and conditions set forth on Schedule 9.17.

9.18 Keepwell. Each Credit Party that is a Qualified ECP Guarantor at the time the Guarantee or the grant of the security interest under the Credit Documents, in each case, by any Specified Credit Party, becomes effective with respect to any Swap Obligation, hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide such funds or other support to each Specified Credit Party with respect to such Swap Obligation as may be needed by such Specified Credit Party from time to time to honor all of its obligations under its Guarantee and the other Credit Documents in respect of such Swap Obligation (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP Guarantor's obligations and undertakings under this Section 9.18 or the Guarantee voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations and undertakings of each Qualified ECP Guarantor under this Section 9.18 shall remain in full force and effect until the Total Commitment and all Letters of Credit have terminated (unless such Letters of Credit have been Cash Collateralized on terms and conditions set forth in Section 3.8 hereof) and the Loans and Unpaid Drawings, together with interest, fees and all other Obligations (other than Hedging Obligations under Secured Hedging Agreements, Cash Management Obligations under Secured Cash Management Agreements or contingent indemnification obligations not then due) are paid in full or the release of such Guarantor in accordance with Section 25 of the Guarantee. Each Qualified ECP Guarantor intends this Section 9.18 to constitute, and this Section 9.18 shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support, or other agreement" for the benefit of, each Specified Credit Party for all purposes of the Commodity Exchange Act.

SECTION 10. Negative Covenants

The Borrower hereby covenants and agrees that on the Effective Date and thereafter, until the Total Commitment and all Letters of Credit have terminated (unless such Letters of Credit have been Cash Collateralized on terms and conditions set forth in Section 3.8 hereof) and the Loans and Unpaid Drawings, together with interest, fees and all other Obligations (other than Hedging Obligations under Secured Hedging Agreements, Cash Management Obligations under Secured Cash Management Agreements or contingent indemnification obligations), are paid in full:

10.1 Limitation on Indebtedness. The Borrower will not, and will not permit any of the Restricted Subsidiaries to create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise suffer to exist any Indebtedness, except:

(a) Indebtedness arising under (i) the Credit Documents, including pursuant to Sections 2.14 and 2.15 hereof and any Credit Agreement Refinancing Indebtedness and (ii) the Senior Notes Documents in an aggregate outstanding principal amount under this clause (ii) not to exceed \$500,000,000 and any Permitted Refinancing Indebtedness in respect thereof;

(b) Indebtedness of (i) the Borrower or any Subsidiary Guarantor owing to the Borrower or any Restricted Subsidiary; provided that any such Indebtedness owing by a Credit

Party to a Subsidiary that is not a Subsidiary Guarantor shall (x) be evidenced by the Intercompany Note or (y) otherwise be outstanding on the Effective Date so long as such Indebtedness is evidenced by the Intercompany Note or otherwise subject to subordination terms substantially identical to the subordination terms set forth in Exhibit N within 60 days of the Effective Date or such later date as the Administrative Agent shall reasonably agree, in each case, to the extent permitted by Applicable Law and not giving rise to material adverse tax consequences, (ii) any Restricted Subsidiary that is not a Subsidiary Guarantor owing to any other Restricted Subsidiary that is not a Subsidiary Guarantor and (iii) to the extent permitted by Section 10.5, any Restricted Subsidiary that is not a Subsidiary Guarantor owing to the Borrower or any Subsidiary Guarantor;

(c) (i) Indebtedness in respect of any bankers' acceptance, bank guarantees, letter of credit, warehouse receipt or similar facilities entered into in the ordinary course of business (including in respect of workers' compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers' compensation claims) and (ii) Indebtedness supported by Letters of Credit in an amount not to exceed the Stated Amount of such Letters of Credit;

(d) Guarantee Obligations incurred by (i) any Restricted Subsidiary in respect of Indebtedness of the Borrower or any other Restricted Subsidiary that is permitted to be incurred under this Agreement and (ii) the Borrower in respect of Indebtedness of any Restricted Subsidiary that is permitted to be incurred under this Agreement;

(e) Guarantee Obligations incurred in the ordinary course of business in respect of obligations to suppliers, customers, franchisees, lessors, licensees, sublicensees or distribution partners;

(f) (i) Indebtedness the proceeds of which are used to finance the acquisition, lease, construction, repair, replacement, expansion or improvement of fixed or capital assets or otherwise issued or incurred in respect of Capital Expenditures; provided that (A) such Indebtedness is issued or incurred concurrently with or within 270 days after the applicable acquisition, lease, construction, repair, replacement, expansion or improvement and (B) such Indebtedness is not issued or incurred to acquire Capital Stock of any Person and (ii) any Permitted Refinancing Indebtedness issued or incurred to Refinance such Indebtedness; provided that, after giving effect to the incurrence or issuance of any such Indebtedness, the Borrower shall be in compliance on a Pro Forma Basis with the covenants set forth in Sections 10.9 and 10.10 as of the most recently ended Test Period on or prior to the incurrence of any such Indebtedness, calculated on a Pro Forma Basis, as if such incurrence (and transaction) had occurred on the first day of such Test Period;

(g) (i) Indebtedness arising under Capitalized Leases, other than Capitalized Leases in effect on the Effective Date (and set forth on Schedule 10.1) and (ii) any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness; provided that, after giving effect to the incurrence or issuance of any such Indebtedness, the Borrower shall be in compliance on a Pro Forma Basis with the covenants set forth in Sections 10.9 and 10.10 as of the most recently ended Test Period on or prior to the incurrence of any such Indebtedness, calculated on

a Pro Forma Basis, as if such incurrence (and transaction) had occurred on the first day of such Test Period; provided further that at the time of incurrence thereof and after giving Pro Forma Effect thereto and the use of the proceeds thereof, the aggregate principal amount of Indebtedness outstanding under this clause (g) shall not exceed the greater of (x) \$10,000,000 and (y) 0.3% of Consolidated Total Assets (measured as of the date such Indebtedness is issued or incurred based upon the Section 9.1 Financials most recently delivered on or prior to such date of incurrence);

(h) Indebtedness (i) outstanding on the Effective Date listed on Schedule 10.1(a) and any Permitted Refinancing Indebtedness with respect thereto and (ii) intercompany Indebtedness outstanding on the Effective Date (and to the extent such intercompany Indebtedness is not between or among Credit Parties or any 100% Non-Guarantor Pledgee, listed on Schedule 10.1(b)) and any Permitted Refinancing Indebtedness with respect thereto;

(i) Indebtedness in respect of Hedging Agreements incurred in the ordinary course of business and, at the time entered into, not for speculative purposes;

(j) (i) Indebtedness of a Person or Indebtedness attaching to assets of a Person that, in either case, becomes a Restricted Subsidiary (or is a Restricted Subsidiary that survives a merger with such Person or any of its Subsidiaries) or Indebtedness attaching to assets that are acquired by the Borrower or any Restricted Subsidiary, in each case after the Effective Date as the result of a Permitted Acquisition or similar Investments permitted under Section 10.5; provided, that:

(v) such Indebtedness existed at the time such Person became a Restricted Subsidiary or at the time such assets were acquired and, in each case, was not created in anticipation thereof;

(w) such Indebtedness is not guaranteed in any respect by Holdings, the Borrower or any Restricted Subsidiary (other than any such Person that so becomes a Restricted Subsidiary or is the survivor of a merger with such Person or any of its Subsidiaries) except to the extent permitted under Section 10.5;

(x) before and after giving effect to such issuance or incurrence of Indebtedness, no Event of Default shall have occurred or be continuing;

(y) after giving effect to the assumption of any such Indebtedness, to such acquisition and to any related Pro Forma Adjustment, the Borrower shall be in compliance on a Pro Forma Basis with the covenants set forth in Sections 10.9 and 10.10, as such covenants are recomputed as of the last day of the most recently ended Test Period under such Section as if such assumption (and such other transactions) had occurred on the first day of such Test Period; and

(z) (A) the Capital Stock of such Person is pledged to the Collateral Agent to the extent required under Section 9.12 and (B) such Person executes a supplement to each of the Guarantee, the Security Agreement and the Pledge Agreement (or alternative guarantee and security arrangements in relation to the Obligations) and a joinder to the Intercompany Note, in each case to the extent required under

Section 9.11, 9.12 or 9.14(b), as applicable (provided that the assets covered by such pledges and security interests may, to the extent permitted under Section 10.2, equally and ratably secure such Indebtedness assumed with the secured parties subject to intercreditor arrangements in form and substance reasonably satisfactory to the Administrative Agent); provided further, that the requirements of this clause (z) shall not apply to any Indebtedness of the type that could have been incurred under Section 10.1(f) or Section 10.1(g);

and (ii) any Permitted Refinancing Indebtedness incurred to Refinance (in whole or in part) such Indebtedness;

(k) (i) Indebtedness of the Borrower or any Restricted Subsidiary issued or incurred to finance a Permitted Acquisition or similar Investments permitted under Section 10.5; provided further, that:

(v) the terms of such Indebtedness do not provide for any scheduled repayment, mandatory redemption or sinking fund obligation prior to the Latest Maturity Date, other than customary offers to purchase upon a change of control, asset sale or casualty or condemnation event and customary acceleration rights upon an event of default;

(w) if such Indebtedness is incurred by a Restricted Subsidiary that is not a Subsidiary Guarantor, such Indebtedness shall not be guaranteed in any respect by Holdings, the Borrower or any other Subsidiary Guarantor except to the extent permitted under Section 10.5;

(x) before and after giving effect to such issuance or incurrence of Indebtedness, no Event of Default shall have occurred or be continuing; and

(y) after giving effect to the incurrence or issuance of any such Indebtedness, to such acquisition and to any related Pro Forma Adjustment, the Borrower shall be in compliance on a Pro Forma Basis with the covenants set forth in Sections 10.9 and 10.10, as such covenants are recomputed as of the last day of the most recently ended Test Period under such Sections as if such issuance or incurrence (and such other transactions) had occurred on the first day of such Test Period; and

(z) (A) the Borrower or such other relevant Credit Party pledges the Capital Stock of any Person acquired in such Permitted Acquisition or similar Investments permitted under Section 10.5 (the "acquired Person") to the Collateral Agent to the extent required under Section 9.12 and (B) such acquired Person executes a supplement to the Guarantee, the Security Agreement and the Pledge Agreement and a joinder to the Intercompany Note (or alternative guarantee and security arrangements in relation to the Obligations), in each case to the extent required under Section 9.11, 9.12 or 9.14(b), as applicable

and (ii) any Permitted Refinancing Indebtedness incurred to Refinance (in whole or in part) such Indebtedness;

- (l) (i) Indebtedness incurred in connection with any Permitted Sale Leaseback and (ii) any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness;
- (m) (i) Indebtedness in respect of obligations of the Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided, that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money and (ii) Indebtedness in respect of intercompany obligations of the Borrower or any Restricted Subsidiary in respect of accounts payable incurred in connection with goods sold or services rendered in the ordinary course of business and not in connection with the borrowing of money;
- (n) Indebtedness arising from agreements of the Borrower or any Restricted Subsidiary providing for indemnification, adjustment of purchase price (including earn-outs) or similar obligations, in each case entered into in connection with Permitted Acquisitions, other Investments and the disposition of any business, assets or Capital Stock permitted hereunder, other than Guarantee Obligations incurred by any Person acquiring all or any portion of such business, assets or Capital Stock for the purpose of financing such acquisition;
- (o) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds, performance and completion guarantees and similar obligations incurred in the ordinary course of business and not in connection with the borrowing of money;
- (p) Indebtedness of the Borrower or any Restricted Subsidiary consisting of (i) obligations to pay insurance premiums or (ii) take or pay obligations contained in supply agreements, in each case arising in the ordinary course of business and not in connection with the borrowing of money;
- (q) (i) Indebtedness in respect of Margin Lines of Credit and (ii) Indebtedness arising in connection with securities lending arrangements entered into in the ordinary course of business;
- (r) (i) Indebtedness representing deferred compensation to employees, consultants or independent contractors of the Borrower (or any Parent Entity thereof) and the Restricted Subsidiaries incurred in the ordinary course of business and (ii) Indebtedness consisting of obligations of the Borrower (or any Parent Entity thereof) or the Restricted Subsidiaries under deferred compensation to their employees, consultants or independent contractors or other similar arrangements incurred by such Persons in connection with Permitted Acquisitions or any other Investment expressly permitted under Section 10.5;
- (s) Indebtedness consisting of promissory notes issued by any Credit Party to current or former officers, directors, managers, consultants and employees (or their respective spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees) to finance the retirement, acquisition, repurchase, purchase or redemption of Capital Stock of the Borrower (or any Parent Entity thereof to the extent such Parent Entity uses the proceeds to finance the purchase or redemption (directly or indirectly) of its Capital Stock), in each case to the extent permitted by Section 10.6;

(t) Cash Management Obligations, Cash Management Services and other Indebtedness in respect of netting services, overdraft protections, automatic clearinghouse arrangements, employee credit or purchase cards and similar arrangements in each case incurred in the ordinary course of business;

(u) [Reserved];

(v) Indebtedness in respect of (i) Permitted Additional Debt, the Net Cash Proceeds from which are applied to prepay the Term Loans in the manner set forth in Section 5.2(a)(i), provided that in the case of this clause (i), the Borrower shall be subject to the payment of premiums set forth in Section 5.1(b), if applicable; (ii) other Permitted Additional Debt (provided, that the aggregate principal amount of any such Indebtedness incurred under this clause (v)(ii) does not exceed, at the time of incurrence thereof and after giving Pro Forma Effect thereto and the use of the proceeds thereof, the sum of (A) the remaining amount of the Free and Clear Incremental Amount, after giving effect to all Incremental Term Loans, Incremental Revolving Credit Commitment Increases and Additional/Replacement Revolving Credit Commitments that have been incurred or provided pursuant to Section 2.14(b)(A) at any time following the Effective Date, and all other Permitted Additional Debt previously incurred pursuant to this clause (v)(ii)(A) at any time following the Effective Date plus (B) such other Permitted Additional Debt as may be incurred under, and in compliance with, on a Pro Forma Basis, the Incurrence-Based Incremental Amount, provided that, in the case of this clause (ii), (x) no Event of Default shall have occurred and be continuing at the time of the incurrence of any such Indebtedness or after giving effect thereto and (y) after giving effect to the incurrence or issuance of any such Indebtedness, the Borrower shall be in compliance on a Pro Forma Basis with the covenants set forth in Sections 10.9 and 10.10 as of the most recently ended Test Period on or prior to the incurrence of any such Permitted Additional Debt, calculated on a Pro Forma Basis, as if such incurrence (and transaction) had occurred on the first day of such Test Period; and (iii) any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness;

(w) additional Indebtedness and any Permitted Refinancing Indebtedness thereof; provided, that the aggregate principal amount of Indebtedness pursuant to this clause (w) shall not exceed the greater of (x) \$25,000,000 and (y) 0.7% of Consolidated Total Assets (measured as of the date such Indebtedness is incurred based upon the Section 9.1 Financials most recently delivered on or prior to such date of incurrence);

(x) Indebtedness of Restricted Subsidiaries that are not Subsidiary Guarantors; provided that at the time of the incurrence thereof and after giving Pro Forma Effect thereto and the use of the proceeds thereof, the aggregate outstanding principal amount of Indebtedness outstanding in reliance on this paragraph (x) shall not exceed the greater of (x) \$15,000,000 and (y) 0.4% of Consolidated Total Assets (measured as of the date such Indebtedness is issued or incurred based upon the Section 9.1 Financials most recently delivered on or prior to such date of incurrence); and

(y) all customary premiums (if any), interest (including post-petition and capitalized interest), fees, expenses, charges and additional or contingent interest on obligations described in each of the clauses of this Section 10.1.

For purposes of determining compliance with this Section 10.1, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Indebtedness described in clauses (a) through (y) above, the Borrower shall, in its sole discretion, classify and reclassify or later divide, classify or reclassify such item of Indebtedness (or any portion thereof) and will only be required to include the amount and type of such Indebtedness in one or more of the above clauses; provided that all Indebtedness outstanding under the Credit Documents will be deemed to have been incurred in reliance only on the exception in clause of Section 10.1(a). The accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 10.1.

10.2 Limitation on Liens. The Borrower will not and will not permit any of the Restricted Subsidiaries to create, incur, assume or suffer to exist any Lien upon any property or assets of any kind (real or personal, tangible or intangible) of the Borrower or any Restricted Subsidiary, whether now owned or hereafter acquired, except:

(a) Liens created pursuant to (i) the Credit Documents to secure the Obligations (including Liens permitted pursuant to Section 3.8) or permitted in respect of any Mortgaged Property by the terms of the applicable Mortgage, (ii) the Permitted Additional Debt Documents securing Permitted Additional Debt Obligations permitted to be incurred under Section 10.1(v) (provided that such Liens do not extend to any assets that are not Collateral) and (iii) the documentation governing any Credit Agreement Refinancing Indebtedness; provided that, (A) in the case of Liens securing Permitted Additional Debt Obligations or Credit Agreement Refinancing Indebtedness that constitute First Lien Obligations pursuant to subclause (ii) or (iii) above, the applicable Permitted Additional Debt Secured Parties or parties to such Credit Agreement Refinancing Indebtedness (or a representative thereof on behalf of such holders) shall have entered into with the Administrative Agent and/or the Collateral Agent a Customary Intercreditor Agreement which agreement shall provide that the Liens securing such Permitted Additional Debt Obligations or Credit Agreement Refinancing Indebtedness shall not rank junior to or senior to the Lien securing the Obligations (but without regard to control of remedies) and (B) in the case of Liens securing Permitted Additional Debt Obligations or Credit Agreement Refinancing Indebtedness that do not constitute First Lien Obligations pursuant to subclause (ii) or (iii) above, the applicable Permitted Additional Debt Secured Parties or parties to such Credit Agreement Refinancing Indebtedness (or a representative thereof on behalf of such holders) shall have entered into a Customary Intercreditor Agreement with the Administrative Agent and/or the Collateral Agent which agreement shall provide that the Liens securing such Permitted Additional Debt Obligations or Credit Agreement Refinancing Indebtedness shall rank junior to the Lien securing the Obligations. Without any further consent of the Lenders, the Administrative Agent and the Collateral Agent shall be authorized to negotiate, execute and deliver on behalf of the Secured Parties any intercreditor agreement or any amendment (or amendment and restatement) to the Security Documents or a Customary Intercreditor Agreement to effect the provisions contemplated by this Section 10.2(a);

(b) Permitted Liens;

(c) Liens securing Indebtedness permitted pursuant to Section 10.1(f) or Section 10.1(g); provided, that (i) with respect to Indebtedness permitted under Section 10.1(f), such Liens attach



concurrently with or within 270 days after the acquisition, lease, repair, replacement, construction, expansion or improvement (as applicable) of the property subject to such Liens, (ii) other than the property financed by such Indebtedness, such Liens do not at any time encumber any property, except for replacements thereof and accessions and additions to such property and the proceeds and the products thereof and customary security deposits and (iii) with respect to Capitalized Leases, such Liens do not at any time extend to or cover any assets (except for accessions and additions to such assets, replacements and products thereof and customary security deposits) other than the assets subject to such Capitalized Leases; provided that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender;

(d) Liens on property or assets existing on the Effective Date and listed on Schedule 10.2 or, to the extent not listed in such Schedule, the principal amount of the obligations secured by such property or assets does not exceed \$10,000,000 in the aggregate; provided that (i) such Lien does not extend to any other property or asset of the Borrower or any Restricted Subsidiary other than (A) after acquired property that is affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted by Section 10.1 and (B) the proceeds and products thereof and (ii) such Lien shall secure only those obligations that it secures on the Effective Date and any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness permitted by Section 10.1;

(e) the modification, replacement, extension or renewal of any Lien permitted by clauses (a) through (d) above, and clauses (f), (q), (r), (t), (x), and (y) of this Section 10.2 upon or in the same assets theretofore subject to such Lien, other than after-acquired property that is (i) affixed or incorporated into the property covered by such Lien, (ii) in the case of Liens permitted by clauses (a), (f), (q), (r) and (x), after-acquired property subject to a Lien securing Indebtedness permitted under Section 10.1, the terms of which Indebtedness require or include a pledge of after-acquired property (it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and (iii) the proceeds and products thereof;

(f) Liens existing on the assets of any Person that becomes a Restricted Subsidiary (other than by designation as a Restricted Subsidiary pursuant to Section 9.16), or existing on assets acquired, pursuant to a Permitted Acquisition or any other Investment permitted under Section 10.5 to the extent the Liens on such assets secure Indebtedness permitted by Section 10.1(j); provided that such Liens attach at all times only to the same assets that such Liens (other than after-acquired property that is (i) affixed or incorporated into the property covered by such Lien, (ii) after-acquired property subject to a Lien securing Indebtedness permitted under Section 10.1(j), the terms of which Indebtedness require or include a pledge of after-acquired property (it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and (iii) the proceeds and products thereof) attached to, and secure only, the same Indebtedness or obligations (or any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness permitted by Section 10.1) that such Liens secured, immediately prior to such Permitted Acquisition or such other Investment, as applicable;

(g) [Reserved];

(h) Liens securing Indebtedness or other obligations of the Borrower or a Restricted Subsidiary in favor of the Borrower or any Subsidiary Guarantor and Liens securing Indebtedness or other obligations of any Restricted Subsidiary that is not a Subsidiary Guarantor in favor of any Restricted Subsidiary that is not a Subsidiary Guarantor;

(i) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodity brokerage accounts maintained in the ordinary course of business and (iii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right to set off) and which are within the general parameters customary in the banking industry;

(j) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 10.5 to be applied against the purchase price for such Investment, and (ii) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in a transaction permitted under Section 10.4, in each case, solely to the extent such Investment or sale, disposition, transfer or lease, as the case may be, would have been permitted on the date of the creation of such Lien;

(k) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any of the Restricted Subsidiaries in the ordinary course of business permitted by this Agreement;

(l) Liens on Investments that are subject to repurchase agreements constituting Cash Equivalents permitted under Section 10.5;

(m) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the ordinary course of business and, at the time of incurrence thereof, not for speculative purposes;

(n) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance or incurrence of Indebtedness, (ii) relating to pooled deposit, automatic clearinghouse or sweep accounts of Holdings, the Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and the Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business;

(o) Liens solely on any cash earnest money deposits made by the Borrower or any of the Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(p) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(q) (i) Liens securing Indebtedness under any Margin Lines of Credit or (ii) arising in connection with securities lending arrangements entered into in the ordinary course of business;

(r) Liens not otherwise permitted by this Section 10.2; provided that, at the time of the incurrence thereof and after giving Pro Forma Effect thereto and the use of proceeds thereof, the aggregate outstanding amount of Indebtedness and other obligations secured thereby does not exceed the greater of \$10,000,000 and 0.3% of Consolidated Total Assets (measured as of the date such Lien is incurred based upon the Section 9.1 Financials most recently delivered on or prior to such date of incurrence); provided that, if such Liens are on Collateral (other than cash and Cash Equivalents), the holders of the obligations secured thereby (or a representative or trustee on their behalf) shall have entered into a Customary Intercreditor Agreement providing that the Liens securing such obligations shall rank junior to the Liens securing the Obligations. Without any further consent of the Lenders, the Administrative Agent and the Collateral Agent shall be authorized to negotiate, execute and deliver on behalf of the Secured Parties any Customary Intercreditor Agreement or any amendment (or amendment and restatement) to the Security Documents or the Customary Intercreditor Agreement to effect the provisions contemplated by this Section 10.2;

(s) Liens arising out of any license, sublicense or cross-license of Intellectual Property permitted under Section 10.4;

(t) Liens in respect of Permitted Sale Leasebacks;

(u) the prior rights of consignees and their lenders under consignment arrangements entered into in the ordinary course of business;

(v) agreements to subordinate any interest of the Borrower or any Restricted Subsidiary in any accounts receivable or other proceeds arising from inventory consigned by the Borrower or any Restricted Subsidiary pursuant to an agreement entered into in the ordinary course of business;

(w) Liens on Capital Stock in joint ventures securing obligations of such joint ventures;

(x) Liens with respect to property or assets of any Restricted Foreign Subsidiary securing Indebtedness of a Restricted Foreign Subsidiary permitted under Section 10.1(x); and

(y) Liens on cash and Cash Equivalents used to satisfy or discharge Indebtedness; provided such satisfaction or discharge is permitted hereunder.

10.3 Limitation on Fundamental Changes. Except as expressly permitted by Section 10.4 or 10.5, the Borrower will not, and will not permit any of the Restricted Subsidiaries to, consummate any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or substantially all its business units, assets or other properties, except that:

(a) any Subsidiary of the Borrower or any other Person (other than Holdings) may be merged, amalgamated or consolidated with or into the Borrower or the Borrower may

Dispose of all or substantially all of its assets or properties; provided that (i) the Borrower shall be the continuing or surviving Person or, in the case of a merger, amalgamation or consolidation where the Borrower is not the continuing or surviving Person, the Borrower, or in connection with a Disposition of all or substantially all of the Borrower's assets, the Person formed by or surviving any such merger, amalgamation or consolidation (if other than the Borrower) or the transferee of such assets or properties shall be an entity organized or existing under the laws of the United States, any state thereof, the District of Columbia or any territory thereof (the Borrower or such Person, as the case may be, being herein referred to as the "Successor Borrower"), (ii) the Successor Borrower (if other than the Borrower) shall expressly assume all the obligations of the Borrower under this Agreement and the other Credit Documents pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent, (iii) no Default or Event of Default has occurred and is continuing at the date of such merger, amalgamation, consolidation or Disposition or would result from such consummation of such merger, amalgamation, consolidation or Disposition and (iv) if such merger, amalgamation, consolidation or Disposition involves the Borrower and a Person that, prior to the consummation of such merger, amalgamation, consolidation or Disposition, is not a Restricted Subsidiary of the Borrower (A) each Guarantor, unless it is the other party to such merger, amalgamation, consolidation or Disposition or unless the Successor Borrower is the Borrower, shall have confirmed by a supplement to the Guarantee that its Guarantee shall apply to the Successor Borrower's obligations under this Agreement, (B) each Subsidiary grantor and each Subsidiary pledgor, unless it is the other party to such merger, amalgamation, consolidation or Disposition or unless the Successor Borrower is the Borrower, shall have by a supplement to the Credit Documents confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement and shall have executed a joinder to the Intercompany Note, (C) each mortgagor of a Mortgaged Property, unless it is the other party to such merger, amalgamation, consolidation or Disposition or unless the Successor Borrower is the Borrower, shall have by an amendment to or restatement of the applicable Mortgage confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement, (D) the Borrower shall have delivered to the Administrative Agent an officer's certificate stating that such merger, amalgamation, consolidation or Disposition and any supplements to the Credit Documents preserve the enforceability of the Guarantee and the perfection and priority of the Liens under the Security Documents, (E) if reasonably requested by the Administrative Agent, the Borrower shall be required to deliver to the Administrative Agent an opinion of counsel to the effect that such merger, amalgamation, consolidation or Disposition does not violate this Agreement or any other Credit Document, (F) such merger, amalgamation, consolidation or Disposition shall comply with all the conditions set forth in the definition of the term "Permitted Acquisition" or is otherwise permitted under Section 10.5 and (G) the Successor Borrower shall be in compliance, on a Pro Forma Basis after giving effect to such merger, amalgamation, consolidation or Disposition, with the covenants set forth in Sections 10.9 and 10.10, as such covenants are recomputed as of the last day of the most recently ended Test Period under such Sections as if such merger, amalgamation, consolidation or Disposition had occurred on the first day of such Test Period; provided further, that if the foregoing are satisfied, the Successor Borrower (if other than the Borrower) will succeed to, and be substituted for, the Borrower under this Agreement;

(b) any Subsidiary of the Borrower or any other Person (other than Holdings) may be merged, amalgamated or consolidated with or into any one or more Restricted Subsidiaries of the Borrower or any Restricted Subsidiary may Dispose of all or substantially all

of its assets or properties; provided that (i) in the case of any merger, amalgamation, consolidation or Disposition involving one or more Restricted Subsidiaries, (A) a Restricted Subsidiary shall be the continuing or surviving corporation or the transferee of such assets or (B) the Borrower shall take all steps necessary to cause the Person formed by or surviving any such merger, amalgamation, consolidation or Disposition (if other than a Restricted Subsidiary) to become a Restricted Subsidiary, (ii) in the case of any merger, amalgamation, consolidation involving one or more Subsidiary Guarantors, a Subsidiary Guarantor shall be the continuing or surviving corporation or the Person formed by or surviving any such merger, amalgamation, consolidation or Disposition (if other than a Subsidiary Guarantor) shall execute a supplement to the Guarantee, the Security Agreement, the Pledge Agreement and any applicable Mortgage, and a joinder to the Intercompany Note, each in form and substance reasonably satisfactory to the Collateral Agent in order for the surviving Person to become a Subsidiary Guarantor and pledgor, mortgagor and grantor of Collateral for the benefit of the Secured Parties and to acknowledge and agree to the terms of the Intercompany Note; provided that if such surviving Person is a 100% Non-Guarantor Pledgee, such surviving Person shall not be required to become a Guarantor, pledgor, mortgagor or grantor of Collateral, (iii) no Default or Event of Default has occurred and is continuing on the date of such merger, amalgamation, consolidation or Disposition or would result from the consummation of such merger, amalgamation, consolidation or Disposition and (iv) if such merger, amalgamation, consolidation or Disposition involves a Restricted Subsidiary and a Person that, prior to the consummation of such merger, amalgamation, consolidation or Disposition, is not a Restricted Subsidiary of the Borrower, (A) the Borrower shall have delivered to the Administrative Agent an officer's certificate stating that such merger, amalgamation, consolidation or Disposition and such supplements to any Credit Document preserve the enforceability of the Guarantee and the perfection and priority of the Liens under the Security Agreement, (B) such merger, amalgamation, consolidation or Disposition shall comply with all the conditions set forth in the definition of the term "Permitted Acquisition" or is otherwise permitted under Section 10.5 and (C) the Borrower shall be in compliance, on a Pro Forma Basis after giving effect to such merger, amalgamation, consolidation or Disposition, with the covenants set forth in Sections 10.9 and 10.10, as such covenants are recomputed as of the last day of the most recently ended Test Period under such Sections as if such merger, amalgamation, consolidation or Disposition had occurred on the first day of such Test Period;

(c) any Restricted Subsidiary that is not a Subsidiary Guarantor may (i) merge, amalgamate or consolidate with or into any other Restricted Subsidiary and (ii) Dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Borrower, a Guarantor or any other Restricted Subsidiary of the Borrower;

(d) any Subsidiary Guarantor may (i) merge, amalgamate or consolidate with or into any other Subsidiary Guarantor or into any 100% Non-Guarantor Pledgee, (ii) merge, amalgamate or consolidate with or into any other Restricted Subsidiary which is not a Subsidiary Guarantor; provided that if such Subsidiary Guarantor is not the surviving entity, such merger, amalgamation or consolidation shall be deemed to be an "Investment" and subject to the limitations set forth in Section 10.5 and (iii) sell, lease, license, transfer or otherwise dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Borrower, any other Subsidiary Guarantor or any 100% Non-Guarantor Pledgee;

(e) any Restricted Subsidiary may liquidate or dissolve if (x) the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders and (y) to the extent such Restricted Subsidiary is a Subsidiary Guarantor, any assets or business not otherwise disposed of or transferred in accordance with Section 10.4 or 10.5, or, in the case of any such business, discontinued, shall be transferred to, or otherwise owned or conducted by, the Borrower or another Subsidiary Guarantor after giving effect to such liquidation or dissolution;

(f) to the extent that no Default or Event of Default would result from the consummation of such disposition, the Borrower and the Restricted Subsidiaries may consummate a merger, dissolution, liquidation, consolidation or disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 10.4 (other than 10.4(i)).

10.4 Limitation on Sale of Assets. The Borrower will not and will not permit any of the Restricted Subsidiaries to (i) convey, sell, lease, assign, transfer or otherwise dispose of any of its property, business or assets (including receivables and leasehold interests), whether now owned or hereafter acquired (each, a "Disposition") (other than any such sale, transfer, assignment or other disposition resulting from a Recovery Event), or (ii) sell to any Person (other than to the Borrower or a Subsidiary Guarantor) any shares owned by it of any of their respective Restricted Subsidiaries' Capital Stock, except that:

(a) the Borrower and the Restricted Subsidiaries may sell, lease, assign, transfer, license, abandon, allow the expiration or lapse of or otherwise dispose of the following in the ordinary course of business: (i) obsolete, worn-out, used or surplus assets to the extent such assets are no longer used, useful or necessary for the operation of the Borrower's and its Subsidiaries' business (including allowing any registrations or any applications for registration of any immaterial Intellectual Property rights to lapse or be abandoned); (ii) inventory, securities and goods held for sale or other immaterial assets; and (iii) cash and Cash Equivalents;

(b) the Borrower and the Restricted Subsidiaries may (i) enter into non-exclusive licenses, sublicenses or cross-licenses of Intellectual Property, (ii) exclusively license, sublicense or cross-license Intellectual Property, other than Exclusive IP Licenses, only on terms customary for companies in the industry in which the Borrower and the Restricted Subsidiaries conduct business or otherwise in the ordinary course of business of the Borrower and its Restricted Subsidiaries or (iii) lease, sublease, license or sublicense any real or personal property, other than any Intellectual Property, in the ordinary course of business;

(c) the Borrower and the Restricted Subsidiaries may Dispose of other assets, including by entering into Exclusive IP Licenses (other than accounts receivable except in connection with a Disposition of assets to which such accounts receivable relate) for Fair Market Value; provided that (i) with respect to any Disposition pursuant to this Section 10.4(c) for a purchase price in excess of the greater of (x) \$10,000,000 and (y) 0.3% of Consolidated Total Assets (measured as of the date such assets are Disposed based upon the Section 9.1 Financials most recently delivered on or prior to such date of Disposition), the Borrower or a Restricted Subsidiary shall receive not less than 75% of such consideration in the form of cash or Cash Equivalents; provided that, for purposes of determining what constitutes cash under this clause (i), (A) any liabilities (as shown on the Borrower's or such Restricted Subsidiary's most

recent balance sheet provided hereunder or in the footnotes thereto) of the Borrower or such Restricted Subsidiary, other than liabilities that are by their terms subordinated to the payment in cash of the Obligations, that are assumed by the transferee with respect to the applicable Disposition and for which the Borrower and all of the Restricted Subsidiaries shall have been validly released by all applicable creditors in writing shall be deemed to be cash, (B) any securities received by the Borrower or such Restricted Subsidiary from such transferee that are converted by the Borrower or such Restricted Subsidiary into cash (to the extent of the cash received) within 180 days following the closing of the applicable Disposition shall be deemed to be cash and (C) any Designated Non-Cash Consideration received by the Borrower or such Restricted Subsidiary in respect of the applicable Disposition having an aggregate Fair Market Value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (C) that is outstanding at the time such Designated Non-Cash Consideration is received, not in excess of the greater of (x) \$10,000,000 and (y) 0.3% of Consolidated Total Assets (measured as of the date such Designated Non-Cash Consideration is received based upon the Section 9.1 Financials most recently delivered on or prior to such date) at the time of the receipt of such Designated Non-Cash Consideration, with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value, shall be deemed to be cash, (ii) any non-cash proceeds received in the form of Indebtedness or Capital Stock are pledged to the Collateral Agent to the extent required under Section 9.11, (iii) before and after giving effect to any such Disposition, no Event of Default shall have occurred and be continuing (other than a Disposition made pursuant to a legally binding commitment entered into at a time when no Event of Default existed or would have resulted from such Disposition), and (iv) to the extent applicable, the Net Cash Proceeds thereof are promptly offered to prepay the Term Loans to the extent required by Section 5.2(a)(i);

(d) the Borrower and the Restricted Subsidiaries may (i) sell or discount without recourse accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof and (ii) sell or transfer accounts receivable and related rights pursuant to customary receivables financing facilities so long as the Net Cash Proceeds of any sale or transfer pursuant to this clause (ii) are offered to prepay the Term Loans pursuant to Section 5.2(a)(i);

(e) the Borrower and the Restricted Subsidiaries may Dispose of property or assets to the Borrower or to a Restricted Subsidiary; provided that if the transferor of such property is a Subsidiary Guarantor or the Borrower (i) the transferee thereof must either be the Borrower, a Subsidiary Guarantor or a 100% Non-Guarantor Pledgee or (ii) to the extent such transaction constitutes an Investment, such transaction is permitted under Section 10.5;

(f) the Borrower and the Restricted Subsidiaries may effect any transaction permitted by Section 10.3, 10.5 or 10.6;

(g) the Borrower and the Restricted Subsidiaries may sell, transfer, sale leaseback, separately develop or otherwise dispose of the property listed on Schedule 8.15;

(h) the Borrower and the Restricted Subsidiaries may Dispose of property (including like-kind exchanges) to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are promptly applied to the purchase price of such replacement property;

(i) the Borrower and its Restricted Subsidiaries may enter into Sale Leasebacks, so long as, (i) after giving effect to any such transaction, no Event of Default shall have occurred and be continuing, (ii) the Borrower shall be in compliance, on a Pro Forma Basis after giving effect to such transaction, with the covenants set forth in Sections 10.9 and 10.10, as such covenants are recomputed as of the last day of the most recently ended Test Period, and (iii) to the extent applicable, the Net Cash Proceeds thereof to the Borrower and its Restricted Subsidiaries are promptly offered to prepay the Term Loans to the extent required by Section 5.2(a)(i);

(j) the Borrower and the Restricted Subsidiaries may sell, transfer and otherwise Dispose of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(k) Dispositions listed on Schedule 10.4 or in connection with any Recovery Event;

(l) the unwinding of any Hedging Agreement;

(m) any Disposition of the Capital Stock in, Indebtedness of, or other securities of, an Unrestricted Subsidiary;

(n) transfers of property subject to Recovery Events upon receipt of the net cash proceeds of such Recovery Event; and

(o) Dispositions of any asset between or among the Borrower and/or its Restricted Subsidiaries as a substantially concurrent interim Disposition in connection with a Disposition otherwise permitted pursuant to clauses (a) through (n) above.

10.5 Limitation on Investments. The Borrower will not and will not permit any of the Restricted Subsidiaries to, make any advance, loan, extensions of credit or capital contribution to, or purchase any stock, bonds, notes, debentures or other securities of or any assets of, or make any other investment in, any Person (all of the foregoing, "Investments"), except:

(a) extensions of trade credit, asset purchases (including purchases of inventory, Intellectual Property, supplies and materials), the lease of any asset and the licensing or contribution of Intellectual Property pursuant to joint marketing arrangements with other Persons, in each case in the ordinary course of business;

(b) Investments in assets constituting Cash Equivalents at the time such Investments are made;

(c) loans and advances to officers, directors, employees and consultants of Holdings (or any Parent Entity thereof), the Borrower or any of its Restricted Subsidiaries (i) to finance the purchase of Capital Stock of Holdings (or any Parent Entity thereof); provided that



the amount of such loans and advances used to acquire such Capital Stock shall be contributed to the Borrower in cash as common equity, (ii) for reasonable and customary business related travel expenses, entertainment expenses, moving expenses and similar expenses, in each case incurred in the ordinary course of business, and (iii) for additional purposes not contemplated by subclause (i) or (ii) above; provided that at the time of the making of any such Investment, and after giving Pro Forma Effect thereto and the use of the proceeds thereof, the aggregate principal amount of Investments outstanding in reliance on this Section 10.5(c)(iii) shall not exceed the greater of (x) \$20,000,000 and (y) 0.5% of Consolidated Total Assets (measured as of the date such loans or advances are made based upon the Section 9.1 Financials most recently delivered on or prior to such date the loans or advances are made);

(d) Investments (i) existing or contemplated on the Effective Date and listed on Schedule 10.5, (ii) existing on the Effective Date of the Borrower or any Restricted Subsidiary in the Borrower or any other Restricted Subsidiary and (iii) in the case of each of clauses (i) and (ii), any modification, replacement, renewal, extension or reinvestment thereof, so long as the aggregate amount of all Investments pursuant to this Section 10.5(d) is not increased at any time above the amount of such Investments existing or contemplated on the Effective Date, except pursuant to the terms of such Investment existing or contemplated as of the Effective Date or as otherwise permitted by this Section 10.5;

(e) Investments in Hedging Agreements permitted by Section 10.1(i);

(f) Investments (i) received in connection with the bankruptcy or reorganization of suppliers or customers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment and (ii) consisting of the purchase or acquisition of securities from customers as a result of legal proceedings or regulatory requirements or settlements in the ordinary course of business;

(g) Investments to the extent that the payment for such Investments is made solely with the Capital Stock of Holdings (or any Parent Entity thereof) or the Borrower;

(h) Investments constituting non-cash proceeds of sales, transfers and other Dispositions of assets to the extent permitted by Sections 10.3 and 10.4;

(i) Investments (i) in the Borrower or any Guarantor or in any 100% Non-Guarantor Pledgee, (ii) by any Restricted Subsidiary that is not a Subsidiary Guarantor in the Borrower or any other Restricted Subsidiary, and (iii) by the Borrower or any Subsidiary Guarantor in any Restricted Subsidiary that is not a Guarantor (A) in connection with reorganizations and related activities related to tax planning and reorganizations; provided that, after giving effect to any such reorganization and related activities, the value of the Collateral, taken as a whole, is not materially impaired and (B) in addition to Investments made pursuant to the foregoing clause (A), Investments valued at the Fair Market Value of such Investments at the time such Investment is made, in an aggregate amount, measured, at the time such Investment is made, that would not exceed, after giving effect to the making of such Investment, the sum of (1) the greater of \$20,000,000 and 0.5% of Consolidated Total Assets (measured as of the date

such Investment is made based upon the Section 9.1 Financials most recently delivered on or prior to such date), (2) the Available Equity Amount at such time, (3) the Available Amount at such time and (4) to the extent not otherwise included in the determination of the Available Amount or the Available Equity Amount, an amount equal to any repayments, interest, returns, profits, distributions, income and similar amounts actually received in cash in respect of any such Investment (which amount shall not exceed the amount of such Investment valued at the Fair Market Value of such Investment at the time such Investment was made)(it being understood that to the extent any Investment made pursuant to this Section 10.5(i) was made by using the Available Equity Amount, then the amounts referred to in this clause (iii)(B)(4) shall, to the extent of the original usage of the Available Equity Amount, be deemed to reconstitute such amounts (it being understood that the contribution of the equity interests of one or more “first tier” Foreign Subsidiaries to a Foreign Subsidiary that is a Restricted Subsidiary shall be permitted);

(j) Investments constituting Permitted Acquisitions; provided that the aggregate Permitted Acquisition Consideration relating to all such Permitted Acquisitions made or provided by the Borrower or any Subsidiary Guarantor to acquire any Restricted Subsidiary that does not become a Subsidiary Guarantor or a 100% Non-Guarantor Pledgee or merge, consolidate or amalgamate into Holdings, the Borrower, a Subsidiary Guarantor or a 100% Non-Guarantor Pledgee or any assets that shall not, immediately after giving effect to such Permitted Acquisition, be owned by Holdings, the Borrower, a Subsidiary Guarantor or a 100% Non-Guarantor Pledgee, shall not exceed an aggregate amount that, measured at the time such Investment is made, after giving effect to such Investment, the sum of (i) the greater of (x) \$250,000,000 and (y) 6.75% of Consolidated Total Assets (measured as of the date such Investment is made based upon the Section 9.1 Financials most recently delivered on or prior to such date), (ii) the Available Equity Amount at such time, (iii) the Available Amount at such time, (iv) to the extent not otherwise included in the determination of the Available Amount, the Remaining Dividends Amount or the Available Equity Amount, an amount equal to any repayments, interest, returns, profits, distributions, income and similar amounts actually received in cash in respect of any such Investment (which amount shall not exceed the amount of such Investment valued at the Fair Market Value of such Investment at the time such Investment was made) (it being understood that to the extent any Investment made pursuant to this Section 10.5(j) was made by using the Available Equity Amount, then the amounts referred to in this clause (iv) shall, to the extent of the original usage of the Available Equity Amount, be deemed to reconstitute such amounts) and (v) the Remaining Dividends Amount at such time;

(k) Investments made to repurchase or retire Capital Stock of Holdings (or any Parent Entity thereof) or the Borrower owned by any employee stock ownership plan or key employee stock ownership plan of Holdings (or any Parent Entity thereof) or the Borrower;

(l) Investments in the business of the Borrower and its Restricted Subsidiaries made by the Borrower or any of its Restricted Subsidiaries with the proceeds of any Asset Sale Prepayment Event or Recovery Event prior to the end of the Reinvestment Period or pursuant to an Acceptable Reinvestment Commitment or Restoration Certification;

(m) the Borrower may make a loan to any Parent Entity thereof that could otherwise be made as a Dividend to any Parent Entity thereof under Section 10.6, so long as the amount of such loan is deducted from the amount available to be made as a Dividend under the applicable clause of Section 10.6;

(n) Investments in the ordinary course of business consisting of Article 3 endorsements for collection or deposit and Article 4 customary trade arrangements with customers consistent with past practices;

(o) advances of payroll payments to employees, consultants or independent contractors or other advances of salaries or compensation to employees, consultants or independent contractors, in each case in the ordinary course of business;

(p) Investments held by any Person acquired by the Borrower or a Restricted Subsidiary after the Effective Date or of any Person merged into the Borrower or merged, amalgamated or consolidated with a Restricted Subsidiary in accordance with Section 10.3 after the Effective Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(q) Guarantees by the Borrower or any Restricted Subsidiary of leases (other than Capitalized Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business;

(r) Investments of any OCC-Regulated Subsidiary in the Capital Stock of the Federal Reserve Bank in the district in which such Subsidiary is located in accordance with the provisions of the Federal Reserve Act;

(s) Investments in "seed investment portfolios" for the purpose of testing and determining model portfolios in the ordinary course of business and consistent with past business practice; provided, that at the time of the making of any such Investment, and after giving Pro Forma Effect thereto and the use of the proceeds thereof, the aggregate principal amount of Investments outstanding in reliance on this Section 10.5(s) would not exceed (i) the greater of \$35,000,000 and 0.75% of Consolidated Total Assets (measured as of the date such Investment is made based upon the Section 9.1 Financials most recently delivered on or prior to such date of such Investment) determined after giving effect to the making of such Investment, plus (ii) the Available Amount at such time, plus (iii) the Available Equity Amount, plus (iv) to the extent not otherwise included in the determination of the Available Amount, the Remaining Dividends Amount or the Available Equity Amount, an amount equal to any repayments, interest, returns, profits, distributions, income and similar amounts actually received in cash in respect of any such Investment (which amount shall not exceed the amount of such Investment valued at the fair market value of such Investment at the time such Investment was made), plus (v) the Remaining Dividends Amount at such time;

(t) Investments consisting of Indebtedness, Dispositions, Dividends and debt payments permitted under Sections 10.1, 10.3, 10.4 (other than 10.4(e) or 10.4(f)), 10.6 (other than 10.6(c)) and 10.7;

(u) intercompany Investments in the form of loans, advances or extensions of credit by any Credit Party to any Restricted Subsidiary that is not a Subsidiary Guarantor in the ordinary course of business for working capital purposes; provided, that such loans, advances or extensions of credit shall be evidenced by the Intercompany Note to the extent required by Section 9.12(b);

(v) Investments (x) in an amount not to exceed in the aggregate outstanding at any time the greater of \$400,000,000 and 73.0% of Consolidated EBITDA for the Test Period most recently then-ended for which the Section 9.1 Financials required by Section 9.1(a) or Section 9.1(b) have actually been delivered in respect of (i) loans and advances to financial advisors to assist with the costs (including without limitation foregone revenues and repayment of indebtedness) associated with transitioning such advisors' licenses or businesses to the Borrower and its Subsidiaries or to platforms utilized by the Borrower and its Subsidiaries, and for the purchase of other financial advisors' businesses and for incidental and working capital purposes, (ii) guarantees of the obligations of financial advisors by the Borrower or any Restricted Subsidiary to any Person making loans, mortgages, advances and extensions of credit to such financial advisors, (iii) loans and advances (including Margin Loans) to customers of financial advisors and (iv) loans and advances to vendors, and (y) in an amount not to exceed in the aggregate outstanding at any time the greater of \$150,000,000 and 27.0% of Consolidated EBITDA for the Test Period most recently then-ended for which the Section 9.1 Financials required by Section 9.1(a) or Section 9.1(b) have actually been delivered shall be available for loans and advances to financial advisors in connection with the acquisition by the Borrower or any Restricted Subsidiary of a Person in order to facilitate the transfer of such advisors' businesses to the Borrower and its Subsidiaries or to platforms utilized by the Borrower and its Subsidiaries;

(w) Securities Owned (as set forth on the balance sheet of the Broker-Dealer Regulated Subsidiary) for a period no longer than 10 Business Days following a securities trade from a customer account and constituting securities transactions entered into by the Broker-Dealer Regulated Subsidiary for the purpose of making adjustments to such Subsidiary's customer accounts with respect to such securities trade, with the fair market value of all such Securities Owned (as set forth on the balance sheet of the Broker-Dealer Regulated Subsidiary), not to exceed \$20,000,000 in the aggregate at any time outstanding;

(x) any additional Investments (including Investments in Minority Investments, Investments in Unrestricted Subsidiaries, Investments in joint ventures or similar entities that do not constitute Restricted Subsidiaries, Investments constituting Permitted Acquisitions and Investments in Restricted Subsidiaries that are not, and do not become, Subsidiary Guarantors or in any 100% Non-Guarantor Pledgee); provided that the aggregate amount of such Investment shall not cause the aggregate amount of all such Investments made pursuant to this Section 10.5(x) to exceed, after giving effect to such Investment, the sum of (A) the greater of (x) \$350,000,000 and (y) 6.75 % of Consolidated Total Assets (measured as of the date such Investment is made based upon the Section 9.1 Financials most recently delivered on or prior to such date), plus (B) the Available Equity Amount at such time, plus (C) the Available Amount at such time, plus (D) to the extent not otherwise included in the determination of the Available Amount, the Remaining Dividends Amount or the Available Equity Amount, an amount equal to any repayments, interest, returns, profits, distributions, income and similar amounts actually received in respect of any such Investment (which amount shall not exceed the amount of such Investment) (it being understood that to the extent any Investment made pursuant to this Section 10.5(x) was made by using the Available Equity Amount, then the amounts referred to in this clause (D) shall, to the extent of the original usage of the Available Equity Amount, be deemed to reconstitute such amounts), plus (E) the Remaining Dividends Amount at such time;

provided, further, that intercompany current liabilities incurred in the ordinary course of business and consistent with past practices, in connection with the cash management operations of the Borrower and the Restricted Subsidiaries shall not be included in calculating the limitation in this Section 10.5(x) at any time;

(y) additional Investments (including, without limitation, Permitted Acquisitions) such that, after giving Pro Forma Effect to such Investments, no Event of Default shall have occurred and be continuing and the Borrower would be in compliance with a Consolidated Total Debt to Consolidated EBITDA Ratio as of the most recently ended Test Period on or prior to the making of such Investments, calculated on a Pro Forma Basis, as if such Investments had occurred on the first day of such Test Period, that is no greater than 2.5:1.0;

(z) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers in the ordinary course of business;

(aa) Investments arising as a result of Permitted Sale Leasebacks;

(bb) Investments in Unrestricted Subsidiaries for the purpose of consummating transactions permitted under Section 10.4(g);

(cc) the forgiveness or conversion to Capital Stock of any Indebtedness owed by the Borrower or any Restricted Subsidiary and permitted by Section 10.1; and

(dd) Restricted Subsidiaries of the Borrower may be established or created if the Borrower and such Restricted Subsidiary comply with the applicable requirements of Section 9.14, if applicable; provided that, in each case, to the extent such new Restricted Subsidiary is created solely for the purpose of consummating a transaction pursuant to an acquisition permitted by this Section 10.5, and such new Restricted Subsidiary at no time holds any assets or liabilities other than any merger consideration contributed to it contemporaneously with the closing of such transactions, such new Restricted Subsidiary shall not be required to take the actions set forth in Section 9.14, as applicable, until the respective acquisition is consummated (at which time the surviving entity of the respective transaction shall be required to so comply in accordance with the provisions thereof).

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by, without duplication, (i) any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash by the Borrower or a Restricted Subsidiary in respect of such Investment and (ii) with respect to any loan or advance that by the terms of the original agreement entered into at the time of extension of such loan or advance provides for forgiveness of the obligations thereunder, amounts forgiven in respect of such Investment.

For purposes of determining compliance with this Section 10.5, in the event that a proposed Investment (or a portion thereof) meets the criteria of more than one of the categories of Investments described in clauses (a) through (dd) above, the Borrower will be entitled to divide and classify such Investment (or portion thereof) between one or more of such clauses (a) through (dd) at the time such Investment is made.

10.6 Limitation on Dividends. The Borrower will not pay any dividends (other than dividends payable solely in the Capital Stock of the Borrower) or return any capital to its equity holders or make any other distribution, payment or delivery of property or cash to its equity holders as such, or redeem, retire, purchase or otherwise acquire, directly or indirectly, for consideration, any shares of any class of its Capital Stock or the Capital Stock of any Parent Entity now or hereafter outstanding (or any options or warrants or stock appreciation or similar rights issued with respect to any of its Capital Stock), or set aside any funds for any of the foregoing purposes, or permit the Borrower or any of the Restricted Subsidiaries to purchase or otherwise acquire for consideration (other than in connection with an Investment permitted by Section 10.5) any shares of any class of the Capital Stock of any Parent Entity of the Borrower or the Capital Stock of the Borrower, now or hereafter outstanding (or any options or warrants or stock appreciation or similar rights issued with respect to any of the Capital Stock of any Parent Entity of the Borrower or the Capital Stock of the Borrower) (all of the foregoing "Dividends"); provided that:

(a) (i) the Borrower may (or may pay Dividends to permit any Parent Entity thereof to) redeem in whole or in part any of its Capital Stock for another class of Capital Stock or rights to acquire its Capital Stock or with proceeds from substantially concurrent equity contributions or issuances of new shares of its Capital Stock; provided that any terms and provisions material to the interests of the Lenders, when taken as a whole, contained in such other class of Capital Stock are at least as advantageous to the Lenders as those contained in the Capital Stock redeemed thereby and (ii) the Borrower and any Restricted Subsidiary may pay Dividends payable solely in the Capital Stock (other than Disqualified Capital Stock not otherwise permitted by Section 10.1) of such Person;

(b) so long as no Default or Event of Default has occurred, is continuing or would result therefrom, the Borrower may redeem, acquire, retire or repurchase (and the Borrower may declare and pay Dividends to any Parent Entity thereof, the proceeds of which are used to so redeem, acquire, retire or repurchase) shares of its Capital Stock (or any options or warrants or stock appreciation or similar rights issued with respect to any of such Capital Stock) (or to allow any of the Borrower's Parent Entities to so redeem, retire, acquire or repurchase their Capital Stock (or any options or warrants or stock appreciation or similar rights issued with respect to any of its Capital Stock)) held by any present or former employees, directors, officers, managers, members of management, independent contractors or consultants (or their respective Immediate Family Members or permitted transferees) of any Parent Entity of the Borrower, the Borrower and the Restricted Subsidiaries, with the proceeds of Dividends from, the Borrower, upon the death, disability, retirement or termination of employment of any such Person or otherwise in accordance with any stock option or stock appreciation or similar rights plan, any management, director and/or employee stock ownership or incentive plan, stock subscription plan, employment termination agreement or any other employment agreements or equity holders' agreement; provided that, except with respect to non-discretionary repurchases, acquisitions, retirements or redemptions pursuant to the terms of any stock option or stock appreciation rights plan, any management, director and/or employee stock ownership or incentive plan, stock subscription plan, employment termination agreement or any other employment agreement or

equity holders' agreement, the aggregate amount of all cash paid in respect of all such shares of Capital Stock (or any options or warrants or stock appreciation or similar rights issued with respect to any of such Capital Stock) so redeemed, acquired, retired or repurchased in any calendar year does not exceed the sum of (i) \$10,000,000 plus (ii) all Net Cash Proceeds obtained by Holdings or the Borrower during such calendar year from the sale of such Capital Stock to any present or former employees, directors, officers, managers, members of management, independent contractors or consultants (or their respective Immediate Family Members or permitted transferees) in connection with any permitted compensation and incentive arrangements plus (iii) all net cash proceeds obtained from any key-man life insurance policies received during such calendar year; notwithstanding the foregoing, 100% of the unused amount of payments in respect of this Section 10.6(b)(i) (before giving effect to any carry forward) may be carried forward to the two immediately succeeding fiscal years (but not any other) and utilized to make payments pursuant to this Section 10.6(b) (any amount so carried forward shall be deemed to be used last in the subsequent fiscal year);

(c) (i) to the extent constituting Dividends, the Borrower and any Restricted Subsidiary may make Investments permitted by Section 10.5 and (ii) each Restricted Subsidiary may make Dividends to the Borrower and to Restricted Subsidiaries (and, in the case of a Dividend by a non-wholly owned Restricted Subsidiary, to the Borrower and any Restricted Subsidiary and to each other owner of Capital Stock of such Restricted Subsidiary based on their relative ownership interests);

(d) to the extent constituting Dividends, the Borrower and any Restricted Subsidiary may enter into and consummate transactions expressly permitted by any provision of Section 10.3 and the Borrower may pay Dividends to a Parent Entity thereof as and when necessary to enable such Parent Entity to effect the transactions permitted by such section;

(e) the Borrower may repurchase Capital Stock of any Parent Entity of the Borrower, or the Borrower, as applicable, upon exercise of stock options or warrants to the extent such Capital Stock represents all or a portion of the exercise price of such options or warrants, and the Borrower may pay Dividends to a Parent Entity thereof as and when necessary to enable such Parent Entity to effect such repurchases;

(f) [Reserved];

(g) the Borrower may make and pay Dividends:

(i) the proceeds of which will be used to pay (or to make Dividends to allow any Parent Entity to pay) the tax liability to each relevant jurisdiction in respect of consolidated, combined, unitary or affiliated returns for the relevant jurisdiction of such Parent Entity or the Borrower, but only to the extent of taxes that the Borrower would have to pay if it filed a tax return on a standalone basis for itself and its Subsidiaries or attributable to such Parent Entity's ownership of the Borrower and its Subsidiaries;

(ii) the proceeds of which shall be used to pay (or to make Dividends to allow any Parent Entity of the Borrower to pay) its operating expenses incurred in the ordinary course of business and other corporate overhead costs and expenses (including administrative,

legal, accounting and similar expenses provided by third parties), which are reasonable and customary and incurred in the ordinary course of business, in an aggregate amount not to exceed \$3,000,000 in any fiscal year plus any actual, reasonable and customary indemnification claims made by directors or officers of any Parent Entity of the Borrower;

(iii) the proceeds of which shall be used to pay (or to make Dividends to allow any Parent Entity of the Borrower to pay) franchise taxes and other fees, taxes and expenses required to maintain any of the Borrower's Parent Entities' corporate existence;

(iv) the proceeds of which shall be used to pay (or to make Dividends to any Parent Entity thereof) to make Investments contemplated by Section 10.5(c) and Dividends contemplated by Section 10.6(b));

(v) the proceeds of which shall be used to pay (or to make Dividends to allow any Parent Entity of the Borrower to pay) fees and expenses (other than to Affiliates) related to any unsuccessful equity or debt offering, refinancing, issuance, incurrence, Disposition or acquisition or Investment transaction permitted by this Agreement;

(vi) the proceeds of which shall be used to pay customary salary, bonus and other benefits payable to officers, employees and consultants of any Parent Entity thereof to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Borrower and its Restricted Subsidiaries;

(vii) the proceeds of which shall be distributed in connection with the Transactions;

(h) in addition to the foregoing Dividends, the Borrower may make additional Dividends, provided that any such Dividend shall not cause the aggregate amount of all such Dividends made pursuant to this Section 10.6(h) measured at the time such Dividend is paid to exceed, after giving effect to such Dividend, the sum of (i) so long as no Event of Default has occurred and is continuing or would result therefrom, an amount equal to the Remaining Dividends Amount at the time such Dividend is paid, plus (ii) so long as no Event of Default has occurred and is continuing or would result therefrom, an amount equal to the Available Amount at the time such Dividend is paid, plus (iii) an amount equal to the Available Equity Amount at the time such Dividend is paid, plus (iv) an amount equal to the Specified Dividend Amount;

(i) the Borrower may make additional Dividends pursuant to this clause (i) if, after giving Pro Forma Effect to such Dividends, the Borrower would be in compliance with a Consolidated Total Debt to Consolidated EBITDA Ratio as of the most recently ended Test Period on or prior to date of the making of any such Dividends, calculated on a Pro Forma Basis, as if such Dividends had occurred on the first day of such Test Period, that is no greater than 2.0:1.0;

(j) the Borrower may (or may make Dividends to allow any Parent Entity to) (i) pay cash in lieu of fractional shares in connection with any Dividend, split or combination thereof or any Permitted Acquisition (or similar Investment) and (ii) honor any conversion request by a holder of convertible Indebtedness and make cash payments in lieu of fractional shares in connection with any such conversion and may make payments on convertible Indebtedness in accordance with its terms;



(k) the Borrower may pay (or may make Dividends to allow any Parent Entity to pay) Dividends in an amount equal to withholding or similar taxes payable or expected to be payable by any present or former employee, director, manager or consultant (or its Affiliates, or any of their respective estates or Immediate Family Members) and any repurchases of Capital Stock in consideration of such payments including deemed repurchases in connection with the exercise of stock options; provided in each case that payments made under this Section 10.6(k) shall not exceed \$5,000,000 in the aggregate;

(l) the Borrower may make payments (or make Dividends to allow any Parent Entity to make such payments) described in Sections 9.9(c), (e), (h), (i), (j), (l) and (p) (subject to the conditions set out therein);

(m) the payment of dividends and distributions within 60 days after the date of declaration thereof, if at the date of declaration of such payment, such payment would have complied with the other provisions of this Section 10.6; and

(n) so long as no Event of Default is continuing or would result therefrom, the Borrower may make Dividends to any Parent Entity so that such Parent Entity may make Dividends to its equity holders or the equity holders of such parent in an aggregate amount not exceeding \$2,200,000 which amount consists of 6.0% per annum of the cash contributed to the common Capital Stock of the Borrower from the net cash proceeds of the initial public offering of the Capital Stock of Holdings;

10.7 Limitations on Debt Payments and Amendments. (a) The Borrower will not, and will not permit any of the Restricted Subsidiaries to prepay, repurchase, redeem or otherwise defease any Subordinated Indebtedness (it being understood that payments of regularly scheduled interest shall be permitted); provided that the Borrower or any Restricted Subsidiary may prepay, repurchase, redeem or defease any Subordinated Indebtedness (i) with the proceeds of any Permitted Refinancing Indebtedness in respect of such Indebtedness, (ii) by converting or exchanging any such Indebtedness to Capital Stock of Holdings or any of its Parent Entities or (iii) an aggregate amount not to exceed the sum of (A) the Available Equity Amount at the time of such prepayment, redemption, repurchase or defeasance plus (B) the greater of (x) \$25,000,000 and (y) 0.7% of Consolidated Total Assets (measured as of the date such prepayment, redemption, repurchase or defeasance is made based upon the Section 9.1 Financials most recently delivered on or prior to such date) plus (C) so long as (x) no Event of Default has occurred and is continuing or would result therefrom and (y) the Borrower would be in compliance, on a Pro Forma Basis, with a Consolidated Total Debt to Consolidated EBITDA Ratio of 2.0:1.0 after giving effect thereto, with an aggregate amount not to exceed the Available Amount at the time of such prepayment, redemption, repurchase or defeasance plus (D) the Remaining Dividends Amount at the time of such prepayment, redemption, repurchase or defeasance.

(b) The Borrower will not, and will not permit any of the Restricted Subsidiaries to waive, amend, modify, terminate or release any Subordinated Indebtedness Documentation to the extent that any such waiver, amendment, modification, termination or release, taken as a whole, would be adverse to the Lenders in any material respect.

(c) Notwithstanding the foregoing and for the avoidance of doubt, nothing in this Section 10.7 shall prohibit (i) the repayment or prepayment of intercompany subordinated Indebtedness owed among the Borrower and/or the Restricted Subsidiaries, in either case unless an Event of Default has occurred and is continuing and the Borrower has received a notice from the Collateral Agent instructing it not to make or permit the Borrower and/or the Restricted Subsidiaries to make any such repayment or prepayment or (ii) substantially concurrent transfers of credit positions in connection with intercompany debt restructurings so long as such Indebtedness is permitted by Section 10.1 after giving effect to such transfer.

10.8 Limitations on Sale Leasebacks. The Borrower will not, and will not permit any of the Restricted Subsidiaries to, enter into or effect any Sale Leasebacks, other than Permitted Sale Leasebacks.

10.9 Consolidated Total Debt to Consolidated EBITDA Ratio. (i) Beginning with the Initial Financial Statement Delivery Date, the Borrower will not permit the Consolidated Total Debt to Consolidated EBITDA Ratio as of the last day of any Test Period to be greater than 5.0 to 1.0. The provisions of this Section 10.9 are for the benefit of the Revolving Credit Lenders only and the Required Revolving Class Lenders may amend, waive or otherwise modify this Section 10.9 or the defined terms used solely for purposes of this Section 10.9 or waive any Default resulting from a breach of this Section 10.9 without the consent of any Lenders other than the Required Revolving Class Lenders in accordance with the provisions of Section 13.1(x).

10.10 Consolidated EBITDA to Consolidated Interest Expense Ratio. Beginning with the Initial Financial Statement Delivery Date, the Borrower will not permit the Consolidated EBITDA to Consolidated Interest Expense Ratio as of the last day of any Test Period to be less than 3.0 to 1.0. The provisions of this Section 10.10 are for the benefit of the Revolving Credit Lenders only and the Required Revolving Class Lenders may amend, waive or otherwise modify this Section 10.10 or the defined terms used solely for purposes of this Section 10.10 or waive any Default resulting from a breach of this Section 10.10 without the consent of any Lenders other than the Required Revolving Class Lenders in accordance with the provisions of Section 13.1(x).

10.11 [Reserved]

10.12 Burdensome Agreements. The Borrower will not and will not permit any of the Restricted Subsidiaries to, enter into or permit to exist any Contractual Obligation (other than this Agreement, any other Credit Document, any Permitted Additional Debt Documents related to any Permitted Additional Debt, any documentation governing any Credit Agreement Refinancing Indebtedness or any documentation governing any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness) that limits the ability of (a) any Restricted Subsidiary of the Borrower that is not a Subsidiary Guarantor to make dividends or distributions to the Borrower or any Subsidiary Guarantor or (b) the Borrower or any Guarantor to create, incur, assume or suffer to exist Liens on property of such Person for the benefit of the Secured Parties with respect to the Obligations or under the Credit Documents; provided that the foregoing clauses (a) and (b) shall not apply to Contractual Obligations that

(i) (x) exist on the Effective Date and (to the extent not otherwise permitted by this Section 10.12) are listed on Schedule 10.12 hereto and (y) to the extent Contractual Obligations permitted by clause (x) are set forth in an agreement evidencing Indebtedness or other obligations, are set forth in any agreement evidencing any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness or obligation so long as such Permitted Refinancing Indebtedness does not expand the scope of such Contractual Obligation,

(ii) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a Restricted Subsidiary of the Borrower, so long as such Contractual Obligations were not entered into solely in contemplation of such Person becoming a Restricted Subsidiary of the Borrower,

(iii) represent Indebtedness of a Restricted Subsidiary of the Borrower that is not a Guarantor to the extent such Indebtedness is permitted by Section 10.1,

(iv) arise pursuant to agreements entered into with respect to any sale, transfer, lease or other Disposition permitted by Section 10.4 and applicable solely to assets under such sale, transfer, lease or other Disposition,

(v) are customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted by Section 10.5 and applicable solely to such joint venture entered into in the ordinary course of business,

(vi) are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 10.1, but solely to the extent any negative pledge relates to the property financed by or the subject of such Indebtedness,

(vii) are customary restrictions on leases, subleases, licenses or asset sale agreements otherwise permitted hereby so long as such restrictions relate to the assets subject thereto,

(viii) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Section 10.1 to the extent that such restrictions apply only to the property or assets securing such Indebtedness,

(ix) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Restricted Subsidiary,

(x) are customary provisions restricting assignment of any agreement entered into in the ordinary course of business,

(xi) are restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business,

(xii) are imposed by Applicable Law,

(xiii) customary net worth provisions contained in real property leases entered into by Subsidiaries of the Borrower, so long as the Borrower has determined in good faith that such net worth provisions could not reasonably be expected to impair the ability of the Borrower and its Subsidiaries to meet their ongoing obligation; and

(xiv) contain restrictions prohibiting the granting of a security interest in licenses or sublicenses of Intellectual Property, which licenses and sublicenses are entered into in the ordinary course of business (in which case such restriction shall relate only to such Intellectual Property).

#### SECTION 11. Events of Default

Upon the occurrence of any of the following specified events (each an “Event of Default”):

11.1 Payments. The Borrower shall (a) default in the payment when due of any principal of the Loans or the reimbursement of any Unpaid Drawing or (b) default, and such default shall continue for five or more Business Days, in the payment when due of any interest on the Loans or any fees or of any other amounts owing hereunder or under any other Credit Document (other than any amount referred to in clause (a) above); or

11.12 Representations, etc. Any representation, warranty or statement made or deemed made by any Credit Party herein or in any other Credit Document or any certificate, statement, report or other document delivered or required to be delivered pursuant hereto or thereto shall prove to be untrue in any material respect on the date as of which made or deemed made; or

11.13 Covenants. Any Credit Party shall (a) default in the due performance or observance by it of any term, covenant or agreement contained in Section 9.1(e)(i), Section 9.5 (with respect to the existence of the Borrower only) or Section 10; provided that with respect to Section 10.9 and Section 10.10, (I) the Borrower’s failure to comply with Section 10.9 or Section 10.10 shall not constitute an Event of Default with respect to any Term Loans or Term Loan Commitments unless and until the Required Revolving Class Lenders shall have terminated their respective Commitments and declared all amounts outstanding under the Revolving Credit Facility to be due and payable pursuant to this Section 11 and (II) an Event of Default shall not occur until the expiration of the 10th day subsequent to the date the certificate calculating compliance with Section 10.9 and Section 10.10 as of the last day of any fiscal quarter is required to be delivered pursuant to Section 9.1(d) (without giving effect to any grace period for such delivery) with respect to such fiscal quarter or fiscal year, as applicable or (b) default in the due performance or observance by it of any term, covenant or agreement (other than those referred to in Section 11.1, Section 11.2 and clause (a) of this Section 11.3) contained in this Agreement or any other Credit Document and such default shall continue unremedied for a period of at least 30 days after receipt of written notice by the Borrower from the Administrative Agent or the Required Lenders; or

11.14 Default Under Other Agreements. (a) The Borrower or any of the Restricted Subsidiaries shall (i) default in any payment with respect to any Indebtedness (other

than any Indebtedness described in Section 11.1) in excess of \$35,000,000, beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created or (ii) default in the observance or performance of any agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event shall occur or condition exist (other than, (i) with respect to Indebtedness consisting of any Hedging Agreements, termination events or equivalent events pursuant to the terms of such Hedging Agreements and (ii) secured Indebtedness that becomes due solely as a result of the sale, transfer or other Disposition (including as a result of Recovery Event) of the property or assets securing such Indebtedness the effect of which default or other event or condition is to cause, or to permit the holder or holders of such Indebtedness) (or a trustee or agent on behalf of such holder or holders) to cause, any such Indebtedness to become due prior to its stated maturity; provided that such default or failure remains unremedied or has not been waived by the holders of such Indebtedness; or (b) without limiting the provisions of clause (a) above, any such Indebtedness shall be declared to be due and payable, or required to be prepaid other than by a regularly scheduled required prepayment or as a mandatory prepayment prior to the stated maturity thereof, provided that this clause (b) shall not apply to (A) Indebtedness outstanding under any Hedging Agreements that becomes due pursuant to a termination event or equivalent event under the terms of such Hedging Agreements and (B) secured Indebtedness that becomes due as a result of a Disposition or a Recovery Event of, or related to, the property or assets securing such Indebtedness prior to the stated maturity thereof; or

11.5 Bankruptcy, etc. Holdings, the Borrower or any Specified Subsidiary shall commence a voluntary case, proceeding or action concerning itself under the Bankruptcy Code; or an involuntary case, proceeding or action is commenced against Holdings, the Borrower or any Specified Subsidiary under the Bankruptcy Code and the petition is not dismissed within 60 days after commencement of the case, proceeding or action; or a custodian (as defined in the Bankruptcy Code) receiver, receiver manager, trustee or similar person is appointed for, or takes charge of, all or substantially all of the property of Holdings, the Borrower or any Specified Subsidiary; or Holdings, the Borrower or any Specified Subsidiary commences any other proceeding or action under any other Debtor Relief Law of any jurisdiction whether now or hereafter in effect relating to Holdings, the Borrower or any Specified Subsidiary; or there is commenced against Holdings, the Borrower or any Specified Subsidiary under any Debtor Relief Law any such proceeding or action that remains undismissed for a period of 60 days; or any order of relief or other order approving any such case or proceeding or action is entered; or Holdings, the Borrower or any Specified Subsidiary suffers any appointment of any custodian receiver, receiver manager, trustee or the like for it or any substantial part of its property to continue undischarged or unstayed for a period of 60 days; or Holdings, the Borrower or any Specified Subsidiary makes a general assignment for the benefit of creditors; or any corporate action is taken by Holdings, the Borrower or any Specified Subsidiary for the purpose of effecting any of the foregoing; or

11.6 ERISA. (a) With respect to any Pension Plan, the failure to satisfy the minimum funding standard required for any plan year or part thereof or a waiver of such standard or extension of any amortization period is sought or granted under Section 412 of the Code; with respect to any Multiemployer Plan, the failure to make any required contribution or payment; a determination that any Pension Plan is in at-risk status within the meaning of

Section 430 of the Code or Section 303 of ERISA or any Multiemployer Plan is in endangered or critical status within the meaning of Section 432 of the Code or Section 305 of ERISA; any Pension Plan is or shall have been terminated or is the subject of termination proceedings under ERISA (including the giving of written notice thereof); with respect to any Multiemployer Plan, notification by the administrator of such Multiemployer Plan that any of the Borrower, any Restricted Subsidiary thereof or any ERISA Affiliate has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan; the PBGC provides written notice of its intent to terminate any Pension Plan or to appoint a trustee to administer any Pension Plan in a manner that results in a liability under Title IV of ERISA to the Borrower, any Restricted Subsidiary thereof or any ERISA Affiliate; an event shall have occurred or a condition shall exist entitling the PBGC to provide written notice of its intent to terminate any Pension Plan; any of the Borrower, any Restricted Subsidiary thereof or any ERISA Affiliate has incurred or is likely to incur a liability to or on account of a Pension Plan under Section 409, 502(i), 502(l), 515, 4062, 4063, 4064 or 4069 of ERISA or Section 4971 or 4975 of the Code (including the giving of written notice thereof); any termination of a Foreign Plan has occurred; any non-compliance with Applicable Law (including funding requirements under such Applicable Law) for any Foreign Plan has occurred; (b) there could result from any event or events set forth in clause (a) of this Section 11.6 the imposition of a lien, the granting of a security interest, or a liability, or the reasonable likelihood of incurring a lien, security interest or liability; and (c) such lien, security interest or liability will or would be reasonably likely to have a Material Adverse Effect; or

11.7 Guarantee. The Guarantee or any material provision thereof shall cease to be in full force or effect or any Guarantor thereunder or any Credit Party shall deny or disaffirm in writing any Guarantor's obligations under the Guarantee; or

11.8 Security Documents. Any Security Document or any material provision thereof shall cease to be in full force or effect (other than pursuant to the terms hereof or thereof or as a result of acts or omissions of the Administrative Agent, the Collateral Agent or any Lender) or any grantor, pledgor or mortgagor thereunder or any Credit Party shall deny or disaffirm in writing any grantor's, pledgor's or mortgagor's or such Credit Party's obligations under such Security Document; or

11.9 Subordination. The Specified Obligations or the obligations of Holdings or the Subsidiary Guarantors pursuant to the Guarantee shall cease to constitute senior indebtedness under the subordination provisions of any Subordinated Indebtedness Documentation or such subordination provisions shall be invalidated or otherwise cease to be legal, valid and binding obligations of the parties thereto, enforceable in accordance with their terms; or

11.10 Judgments. One or more judgments or decrees shall be entered against Holdings, the Borrower or any of the Restricted Subsidiaries for the payment of money in an aggregate amount in excess of \$35,000,000 for all such judgments and decrees for Holdings, the Borrower and the Restricted Subsidiaries (to the extent not paid or fully covered by insurance provided by a carrier not disputing coverage) and any such judgments or decrees shall not have been satisfied, vacated, discharged, stayed or bonded pending appeal within 60 days from the entry thereof; or

11.11 Change of Control. A Change of Control shall occur;

then, and in any such event, and at any time thereafter, if any Event of Default shall then be continuing, the Administrative Agent shall, upon the written request of the Required Lenders, by written notice to the Borrower, take either or both of the following actions: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately and (ii) declare the principal of and any accrued interest and fees in respect of all Loans and all Obligations owing hereunder and thereunder to be, whereupon the same shall become, forthwith due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower without prejudice to the rights of the Administrative Agent or any Lender to enforce its claims against the Borrower, except as otherwise specifically provided for in this Agreement (provided that if an Event of Default specified in Section 11.5 with respect to the Borrower shall occur, no written notice by the Administrative Agent shall be required and the Commitments shall automatically terminate and all amounts in respect of all Loans and all Obligations shall be automatically become forthwith due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower).

11.12 Borrower's Right to Cure.

(a) Financial Performance Covenant. Notwithstanding anything to the contrary contained in this Section 11, in the event that the Borrower reasonably expects to fail (or has failed) to comply with the requirements of Section 10.9 or 10.10 as of the end of any Test Period, at any time during the last fiscal quarter of such Test Period through and until the expiration of the 10th day subsequent to the date the financial statements are required to be delivered pursuant to Section 9.1(a) or Section 9.1(b) with respect to such fiscal quarter (the "Cure Deadline"), the Borrower (or any Parent Entity thereof) shall have the right to issue Capital Stock for cash or otherwise receive cash contributions to (or in the case of any Parent Entity of Holdings receive equity interests in Holdings for its cash contributions to) the capital of the Borrower (collectively, the "Cure Right"), and upon the receipt by the Borrower of the net proceeds of such issuance or contribution (the "Cure Amount") pursuant to the exercise by the Borrower of such Cure Right, provided such Cure Amount is received by the Borrower on or before the applicable Cure Deadline, compliance with Section 10.9 or 10.10 for such Test Period shall be recalculated giving effect to the following pro forma adjustments:

(i) Consolidated EBITDA shall be increased with respect to such applicable fiscal quarter with respect to which such Cure Amount is received by the Borrower and any Test Period that includes such fiscal quarter, solely for the purpose of determining whether an Event of Default has occurred and is continuing as a result of a violation of the covenants set forth in Section 10.9 or 10.10 and, subject to clause (c) below, not for any other purpose under this Agreement, by an amount equal to the Cure Amount;

(ii) Consolidated Total Debt with respect to any Test Period subsequent to the Test Period for which the Cure Amount is deemed applied that includes such fiscal quarter with respect to which such Cure Amount is received by the Borrower shall be decreased solely to the extent proceeds of the Cure Amount are applied to prepay any Indebtedness (provided that any such Indebtedness so prepaid shall be a permanent repayment of such Indebtedness and termination of commitments thereunder) included in the calculation of Consolidated Total Debt; and

(iii) if, after giving effect to the foregoing pro forma adjustment, the Borrower shall then be in compliance with the requirements of Section 10.9 or 10.10, the Borrower shall be deemed to have satisfied the requirements of Section 10.9 or 10.10 as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of Section 10.9 or 10.10 that had occurred shall be deemed cured for purposes of this Agreement;

provided that the Borrower shall have notified the Administrative Agent in writing of the exercise of such Cure Right within five Business Days of the receipt of the Cure Amounts.

(b) Limitation on Exercise of Cure Right. Notwithstanding anything herein to the contrary, (i) in each four fiscal-quarter period there shall be no more than two fiscal quarters with respect to which the Cure Right is exercised, (ii) from and after the Effective Date, there shall be no more than five exercises of Cure Right in the aggregate, (iii) the Cure Amount shall be no greater than the amount required for purposes of complying with Section 10.9 or 10.10 as of the end of such fiscal quarter (such amount, the “Necessary Cure Amount”); provided that if the Cure Right is exercised prior to the date financial statements are required to be delivered for such fiscal quarter then the Cure Amount shall be equal to the amount reasonably determined by the Borrower in good faith that is required for purposes of complying with Section 10.9 or 10.10 for such fiscal quarter (such amount, the “Expected Cure Amount”), (iv) subject to clause (c) below, all Cure Amounts shall be disregarded for purposes of determining the Applicable Margin, any baskets, with respect to the covenants contained in the Credit Documents or the usage of the Available Amount or the Available Equity Amount and (v) there shall be no pro forma reduction in Indebtedness (by netting or otherwise) with the proceeds of any Cure Amount for determining compliance with Section 10.9 or 10.10 for the Test Period for which such Cure Amount is deemed applied.

(c) Expected Cure Amount. Notwithstanding anything herein to the contrary, to the extent that the Expected Cure Amount is (i) greater than the Necessary Cure Amount, then such difference may be used for the purposes of determining any baskets (other than any previously contributed Cure Amounts), with respect to the covenants contained in the Credit Documents, the Available Amount or the Available Equity Amount and (ii) less than the Necessary Cure Amount, then not later than the applicable Cure Deadline, the Borrower must receive the cash proceeds from the issuance of Capital Stock or a cash capital contribution to Holdings, which cash proceeds received by Borrower shall be equal to the shortfall between such Expected Cure Amount and such Necessary Cure Amount.

## SECTION 12. The Administrative Agent and the Collateral Agent

12.1 Appointment. (a) Each of the Lenders and the Letter of Credit Issuers hereby irrevocably appoints JPMorgan to act on its behalf as the Administrative Agent hereunder and under the other Credit Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. It is understood and agreed that the use of the term “agent”



herein or in any other Credit Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) The Administrative Agent shall also act as the “Collateral Agent” under the Credit Documents, and each of the Lenders (including in its capacities as a potential Hedge Bank and a potential Cash Management Bank) and the Letter of Credit Issuers hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of such Lender and such Letter of Credit Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted under the Security Documents to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “Collateral Agent”, and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 12.2 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent, shall be entitled to the benefits of all provisions of this Section 12 and Section 13 (including Section 13.5(a), as though such co-agents, sub-agents and attorneys-in-fact were the “Collateral Agent” under the Credit Documents) as if set forth in full herein with respect thereto.

12.2 Delegation of Duties. The Administrative Agent and the Collateral Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Credit Document by or through any one or more sub-agents appointed by the Administrative Agent or the Collateral Agent, as applicable. The Administrative Agent, the Collateral Agent and any such sub-agent may perform any and all of its duties and exercise their respective rights and powers by or through their respective Related Parties. The exculpatory provisions of this Section 12 shall apply to any such sub-agent and to the Related Parties of the Administrative Agent, the Collateral Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent or the Collateral Agent, as applicable. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

12.3 Exculpatory Provisions. The Administrative Agent and the Collateral Agent shall not have any duties or obligations except those expressly set forth herein and in the other Credit Documents and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent and the Collateral Agent:

- (a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Credit Documents that the Administrative Agent or the Collateral Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Credit Documents), provided that the Administrative Agent and the Collateral Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent or the Collateral Agent to liability or that is contrary to any Credit Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not, except as expressly set forth herein and in the other Credit Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or the Collateral Agent or any of its Affiliates in any capacity;

(d) shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 12.10 and 13.1) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent and the Collateral Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent and the Collateral Agent by the Borrower, a Lender or a Letter of Credit Issuer; and

(e) shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Credit Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Credit Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Section 6, Section 7 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent and the Collateral Agent.

12.4 Reliance by Administrative Agent. The Administrative Agent and the Collateral Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent and the Collateral Agent also may rely upon any

statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or a Letter of Credit Issuer, the Administrative Agent may presume that such condition is satisfactory to such Lender or such Letter of Credit Issuer unless the Administrative Agent shall have received notice to the contrary from such Lender or such Letter of Credit Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent and the Collateral Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

12.5 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Administrative Agent has received notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a “notice of default”. In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders, provided that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders (except to the extent that this Agreement requires that such action be taken only with the approval of the Required Lenders or each of the Lenders, as applicable).

12.6 Non-Reliance on Administrative Agent and Other Lenders. Each Lender expressly acknowledges that neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates has made any representations or warranties to it and that no act by the Administrative Agent hereinafter taken, including any review of the affairs of the Borrower, any Guarantor or any other Credit Party, shall be deemed to constitute any representation or warranty by the Administrative Agent to any Lender. Each Lender represents to the Administrative Agent that it has, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Borrower, any Guarantor and any other Credit Party and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Administrative Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Credit Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Borrower, any Guarantor and any other Credit Party. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the

business, assets, operations, properties, financial condition, prospects or creditworthiness of the Borrower, any Guarantor or any other Credit Party that may come into the possession of the Administrative Agent or any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates.

12.7 Indemnification. The Lenders agree to indemnify the Agents in their capacity as such (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective portions of the Total Credit Exposure in effect on the date on which indemnification is sought (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with their respective portions of the Total Credit Exposure in effect immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (including at any time following the payment of the Loans) be imposed on, incurred by or asserted against the Agents in any way relating to or arising out of, the Commitments, this Agreement, any of the other Credit Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Agents under or in connection with any of the foregoing, provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Agents' gross negligence or willful misconduct. The agreements in this Section 12.7 shall survive the payment of the Loans and all other amounts payable hereunder.

12.8 Successor Agent. The Administrative Agent and the Collateral Agent may at any time, upon no less than 30 days prior written notice to the Lenders, the Letter of Credit Issuers and the Borrower, resign as an Agent hereunder. In addition, if the Administrative Agent, and/or Collateral Agent shall become a Defaulting Lender pursuant to clause (d) of the definition thereof, then such Agent may be removed from its capacity as Agent hereunder upon the request of the Required Lenders and the Borrower and by notice in writing to such Person. Upon receipt of any such notice of resignation or after notice of removal, the Required Lenders shall have the right, with the consent of the Borrower (such consent not to be unreasonably withheld or delayed), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. In respect of a resignation, if no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent or Collateral Agent, as applicable, gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Administrative Agent or Collateral Agent, as applicable, may with the consent of the Borrower (such consent not be unreasonably withheld or delayed) on behalf of the Lenders and the Letter of Credit Issuers, appoint a successor Administrative Agent or Collateral Agent, as applicable, meeting the qualifications set forth above; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then, whether or not a successor has been appointed, such resignation shall nonetheless become effective in accordance with such notice on the Resignation Effective Date. In respect of a removal, if no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after receipt by the removed

Administrative Agent or Collateral Agent, as applicable, of the written notice of its removal (or such earlier day as shall be agreed by the Required Lenders) (the "**Removal Effective Date**"), if the Required Lenders shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then, whether or not a successor has been appointed, such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date. Effective as of the Resignation Effective Date or the Removal Effective Date, as applicable, (a) the retiring Administrative Agent or Collateral Agent, as applicable, shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Collateral Agent on behalf of the Lenders or the Letter of Credit Issuers under any of the Credit Documents, the retiring Collateral Agent shall continue to hold such collateral security until such time as a successor Collateral Agent is appointed) and (b) all payments, communications and determinations provided to be made by, to or through the Administrative Agent or Collateral Agent, as applicable, shall instead be made by or to each Lender and Letter of Credit Issuer directly, until such time as the Required Lenders appoint a successor Administrative Agent or Collateral Agent, as applicable, as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent or Collateral Agent, as applicable, hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) or replaced Administrative Agent or Collateral Agent, as applicable, and the retiring (or retired) or replaced Administrative Agent or Collateral Agent, as applicable, shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent or Collateral Agent, as applicable, shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or replaced Administrative Agent's or Collateral Agent's as applicable, resignation or replacement hereunder and under the other Credit Documents, the provisions of this Section 12 and Section 13.5 shall continue in effect for the benefit of such retiring or replaced Administrative Agent or Collateral Agent, as applicable, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent or Collateral Agent, as applicable, was acting as Administrative Agent or Collateral Agent, as applicable.

Any resignation or replacement by JPMorgan as Administrative Agent pursuant to this Section shall also constitute its resignation or replacement as Letter of Credit Issuer and Swingline Lender. If JPMorgan resigns or is replaced as a Letter of Credit Issuer, it shall retain all the rights, powers, privileges and duties of a Letter of Credit Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation or replacement as Letter of Credit Issuer and all Letter of Credit Obligations with respect thereto, including the right to require the Lenders to make Revolving Credit Loans or fund risk participations in Unpaid Drawings pursuant to Section 3.3. If JPMorgan resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Revolving Credit Loans or fund risk participations in outstanding Swingline Loans pursuant to Section 2.1(d). Upon the appointment by the Borrower of a successor Letter of Credit Issuer or Swingline Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Letter of Credit Issuer or Swingline

Lender, as applicable, (b) the retiring Letter of Credit Issuer and Swingline Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Credit Documents, and (c) the successor Letter of Credit Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to JPMorgan to effectively assume the obligations of JPMorgan with respect to such Letters of Credit.

12.9 Withholding Tax. To the extent required by any applicable law, the Administrative Agent may withhold from any interest payment to any Lender an amount equivalent to any applicable withholding tax, except taxes imposed as a result of a current or former connection unrelated to this Agreement between the Administrative Agent and any jurisdiction outside of the United States imposing such tax. If the Internal Revenue Service or any authority of the United States or other jurisdiction asserts a claim that the Administrative Agent did not properly withhold tax from amounts paid to or for the account of any Lender (because the appropriate form was not delivered, was not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstances which rendered the exemption from, or reduction of, withholding tax ineffective, or for any other reason), such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as tax or otherwise, including penalties and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses.

12.10 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

12.11 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Joint Lead Arrangers, Joint Bookrunners, Syndication Agent or the Documentation Agent listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Credit Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or a Letter of Credit Issuer hereunder.

12.12 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any under the Bankruptcy Code, any other applicable bankruptcy laws or any other judicial proceeding relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan or Letter of Credit Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letter of Credit Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Letter of Credit Issuers and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Letter of Credit Issuers and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Letter of Credit Issuers and the Administrative Agent under Sections 4.1 and 13.5) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Letter of Credit Issuer to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Letter of Credit Issuers, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 4.1 and 13.5.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or Letter of Credit Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Letter of Credit Issuer to authorize the Administrative Agent to vote in respect of the claim of any Lender or Letter of Credit Issuer or in any such proceeding.

12.13 Secured Cash Management Agreements and Secured Hedge Agreements. Except as otherwise expressly set forth herein or in any Guarantee or any Security Document, no Cash Management Bank or Hedge Bank that obtains the benefits of any Guarantee or any Collateral by virtue of the provisions hereof or of any Guarantee or any Security Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Credit Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Credit Documents. Notwithstanding any other provision of this Section 12 to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedging Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

12.14 Intercreditor Agreements. In connection with the incurrence by the Borrower or any Restricted Subsidiary of any Indebtedness that is secured by Liens permitted by Section 10.2, at the request of the Borrower, the Administrative Agent (including in its capacity as Collateral Agent) agrees to execute and deliver the Customary Intercreditor Agreements, as applicable, and any amendments, amendments and restatements, restatements or waivers of or

supplements thereto. In connection with any such amendment, restatement, waiver, supplement or other modification, the Credit Parties shall deliver such officers' certificates and supporting documentation as the Administrative Agent may reasonably request. The Lenders hereby authorize the Administrative Agent to take any action contemplated by the preceding sentence, and any such amendment, amendment and restatement, restatement, waiver of or supplement to or other modification of any such Credit Document shall be effective notwithstanding the provisions of Section 13.1.

SECTION 13. Miscellaneous

13.1 Amendments and Waivers. Except as expressly set forth in this Agreement, neither this Agreement nor any other Credit Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 13.1. The Required Lenders may, or, with the written consent of the Required Lenders, the Administrative Agent and/or the Collateral Agent shall, from time to time, (a) enter into with the relevant Credit Party or Credit Parties written amendments, supplements or modifications hereto and to the other Credit Documents for the purpose of adding any provisions to this Agreement or the other Credit Documents or changing in any manner the rights of the Lenders or the Credit Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders, the Administrative Agent and/or the Collateral Agent, as the case may be, may specify in such instrument, any of the requirements of this Agreement or the other Credit Documents or any Default or Event of Default and its consequences (other than with respect to any amendment or waiver contemplated in (I) clauses (i) and (vii), which shall only require the consent of the Lenders directly and adversely affected thereby and (II) clauses (ii) and (x), which shall only require the consent of the Required Credit Facility Lenders under the applicable Credit Facility or Credit Facilities, as applicable); provided that no such waiver, amendment, supplement or modification shall directly:

(i) reduce or forgive the principal of any Loan (it being understood that a waiver of any condition precedent or waiver of any Default, Event of Default, mandatory prepayment or mandatory commitment reduction shall not constitute a reduction or forgiveness of principal) or extend any scheduled amortization payments or the final scheduled maturity date of any Loan (other than as a result of waiving the conditions precedent set forth in Section 6 and Section 7 or other than as a result of a waiver or amendment of any Default, Event of Default, mandatory prepayment of Term Loans or mandatory commitment reduction (which shall not constitute an extension, forgiveness or postponement of any maturity date)), or reduce the stated interest rate applicable to the Loans (it being understood that any change (x) to the definition of "Consolidated Total Debt to Consolidated EBITDA Ratio", "Consolidated Secured Debt to Consolidated EBITDA Ratio" or "Consolidated EBITDA to Consolidated Interest Expense Ratio" or (y) in the component definitions thereof shall not constitute a reduction in the rate and provided that only the consent of the Required Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the "default rate" or amend Section 2.8(c)), or reduce or forgive any portion, or extend the date for the payment, of any interest or fee payable hereunder, (other than as a result of waiving the applicability of any post-default increase in interest rates and other than as a result of waiving the conditions precedent set forth in Section 6 and Section 7 or other than as a result of a waiver or amendment of any Default, Event of Default, any mandatory prepayment of Term Loans or mandatory commitment reduction (which shall not



constitute an extension, forgiveness or postponement of any date for payment of principal, interest or fees) or extend the final expiration date of any Lender's Commitment or extend the final expiration date of any Letter of Credit beyond the date specified in Section 3.1(a), or increase the aggregate amount of any Commitment (other than with respect to any Incremental Facility to which such Lender has agreed) of any Lender (other than as a result of waiving the conditions precedent set forth in Section 6 and Section 7 or other than as a result of a waiver or amendment of any Default, Event of Default, mandatory prepayment of Term Loans or mandatory commitment reduction (which shall not constitute an extension or increase of any commitment)), or decrease or forgive any Repayment Amount, or extend any scheduled Initial Term Loan Repayment Date or any date scheduled for the repayment of any installment of Incremental Term Loans, in each case, without the written consent of each Lender directly and adversely affected thereby, or

(ii) reduce the percentages specified in the definition of the term "Required Revolving Class Lenders", "Required Term Class Lenders" or "Required Additional/Replacement Revolving Credit Lenders", in each case without the written consent of each Revolving Credit Lender directly and adversely affected thereby, each Term Lender directly and adversely affected thereby or each Additional/Replacement Revolving Credit Lenders directly and adversely affected thereby, as applicable, or

(iii) amend, modify or waive any provision of this Section 13.1 or reduce the percentages specified in the definition of the term "Required Lenders" or consent to the assignment or transfer by the Borrower of its rights and obligations under any Credit Document to which it is a party (except as permitted pursuant to Section 10.3), without the written consent of each Lender directly and adversely affected thereby, or

(iv) amend, modify or waive any provision of Section 12 without the written consent of the then-current Administrative Agent and/or the Collateral Agent, as applicable, or

(v) amend, modify or waive any provision of Section 2.16 (to the extent applicable to it) or Section 3 without the written consent of each Letter of Credit Issuer, or

(vi) amend, modify or waive any provisions hereof relating to Swingline Loans without the written consent of each Swingline Lender, or

(vii) change any Commitment to a Commitment of a different Class without the prior written consent of each Lender directly and adversely affected thereby, or

(viii) release all or substantially all of the Guarantors under the Guarantee (except as expressly permitted by the Guarantee), or release all or substantially all of the Collateral under the Security Documents, in each case without the prior written consent of each Lender, or

(ix) amend Section 2.9 so as to permit Interest Period intervals greater than six months if not available to all applicable Lenders, in each case without the written consent of each applicable Lender, or

(x) amend or otherwise modify Section 10.9 or Section 10.10 or any definition related thereto (as any such definition is used for purposes of Sections 10.9 and 10.10) or waive any Default or Event of Default resulting from a failure to perform or observe the financial covenants in Sections 10.9 and 10.10 without the written consent of the Required Revolving Class Lenders; provided, however, that the waivers described in this clause (x) shall not require the consent of any Lenders other than the Required Revolving Class Lenders;

provided, further, that (A) any waiver, amendment or modification of this Agreement that by its terms affects the rights or duties under this Agreement of Lenders holding Loans or Commitments of a particular Class (but not the Lenders holding Loans or Commitments of any other Class) may be effected by an agreement or agreements in writing entered into by Holdings, the Borrower and the requisite percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section if such Class of Lenders were the only Class of Lenders hereunder at the time and (B) any provision of this Agreement or any other Credit Document may be amended by an agreement in writing entered into by Holdings, the Borrower and the Administrative Agent to cure any ambiguity, omission, defect or inconsistency (including, without limitation, amendments, supplements or waivers to any of the Security Documents, guarantees, intercreditor agreements or related documents executed by any Credit Party or any other Subsidiary in connection with this Agreement if such amendment, supplement or waiver is delivered in order to cause such Security Documents, guarantees, intercreditor agreements or related documents to be consistent with this Agreement and the other Credit Documents) so long as, in each case, the Lenders shall have received at least five Business Days' prior written notice thereof and the Administrative Agent shall not have received, within five Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment; provided that the consent of the Lenders or the Required Lenders, as the case may be, shall not be required to make any such changes necessary to be made in connection with any borrowing of Incremental Term Loans to effect the provisions of Section 2.14, the provision of any Incremental Revolving Credit Commitment Increase, any Additional/Replacement Revolving Credit Commitments or otherwise to effect the provisions of Section 2.14, 2.15 or 10.2(a).

Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent, Holdings and the Borrower (a) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Credit Documents with the Term Loans, the Revolving Credit Loans and Additional/Replacement Revolving Credit Loans and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and other definitions related to such new Class.

Notwithstanding anything to the contrary contained in this Section 13.1, Holdings, the Borrower, the Collateral Agent and the Administrative Agent may (in its or their respective sole discretion, or shall, to the extent required by any Credit Document), without the input or consent of any other Person, (i) effect amendments, supplements or waivers to any of the Security Documents, guarantees, intercreditor agreements or related documents executed by any Credit Party or any other Subsidiary in connection with this Agreement if such amendment,

supplement or waiver is delivered in order (x) to comply with Applicable Law or advice of local counsel, (y) to cure ambiguities, omissions, mistakes or defects or (z) to cause such Security Documents, guarantees, intercreditor agreements or related documents to be consistent with this Agreement and the other Credit Documents, (ii) enter into any amendment or waiver of any Security Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, or as required by Applicable Law to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable Applicable Law and (iii) effect changes to this Agreement that are necessary and appropriate to provide for the mechanics contemplated by the offering process described in Section 13.6(g)(i)(H) herein.

### 13.2 Notices.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in clause (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Administrative Agent, any Letter of Credit Issuer or any Swingline Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 13.2 or to such other address, telecopier number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its administrative questionnaire or to such other address, telecopier number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and Letter of Credit Issuers hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or Letter of Credit Issuer pursuant to Section 2 if such Lender or such Letter of Credit Issuer, as applicable, has notified the Administrative Agent that it is incapable of

receiving notices under such Section by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Reliance by Agents and Lenders. The Administrative Agent, the Collateral Agent and the Lenders shall be entitled to rely and act upon any notices purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. All telephonic notices to the Administrative Agent and/or the Collateral Agent may be recorded by the Administrative Agent and/or the Collateral Agent, and each of the parties hereto hereby consents to such recording.

(d) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to Holdings, the Borrower, any Lender, any Letter of Credit Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's, any Credit Party's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Agent Party.

13.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Administrative Agent, the Collateral Agent or any Lender, any right, remedy, power or privilege hereunder or under the other Credit Documents shall

operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

13.4 Survival of Representations and Warranties. All representations and warranties made hereunder, in the other Credit Documents and in any document, certificate or statement delivered pursuant hereto or in connection herewith shall survive the execution and delivery of this Agreement and the making of the Loans hereunder.

13.5 Payment of Expenses and Taxes; Indemnification. (a) The Borrower agrees (i) to pay or reimburse each of the Agents, each Joint Lead Arranger, each Joint Bookrunner and the Syndication Agent for all their reasonable and documented and invoiced out-of-pocket costs and reasonable expenses (without duplication) associated with the syndication of the Credit Facilities and incurred in connection with the development, preparation, execution and delivery of, and any amendment, supplement and/or modification to this Agreement and the other Credit Documents and any other documents prepared in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable fees, disbursements and other charges of Shearman & Sterling LLP as counsel to the Agents with statements with respect to the foregoing to be submitted to the Borrower prior to the Effective Date (in the case of amounts to be paid on the Effective Date and from time to time thereafter on a quarterly basis) and one counsel in each relevant local jurisdiction approved by, or otherwise retained with the consent of, the Borrower, (ii) to pay or reimburse the Collateral Agent, the Administrative Agent and each Lender for all their reasonable and documented and invoiced out-of-pocket costs and reasonable expenses incurred in connection with the enforcement or preservation of any rights under this Agreement, the other Credit Documents and any such other documents, including the reasonable fees, disbursements and other charges of one firm or counsel to the Administrative Agent and the Collateral Agent and, to the extent required, one firm or local counsel in each relevant local jurisdiction or otherwise retained with the Borrower's consent (such consent not to be unreasonably withheld, conditioned or delayed (which may include a single special counsel acting in multiple jurisdictions), and (iii) to pay, indemnify and hold harmless each Lender, the Administrative Agent, the Collateral Agent, each Joint Lead Arranger, the Joint Bookrunners, the Syndication Agent, each Letter of Credit Issuer and their respective Related Parties (without duplication) (the "Indemnified Parties") from and against any and all other liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, reasonable expenses or disbursements of any kind or nature whatsoever (including, but not limited to, any action, claim, litigation, investigation, inquiry or other proceeding), including, taken as a whole, reasonable and documented or invoiced out-of-pocket fees, reasonable expenses, disbursements and other charges of one firm of counsel for all Indemnified Parties, taken as a whole (and, in the case of an actual or perceived conflict of interest where the Indemnified Party affected by such conflict notifies the Borrower of any existence of such conflict and in connection with the investigating or defending any of the foregoing (including the reasonable fees) has retained its own counsel, of another firm of counsel for such affected Indemnified Party), and to the extent required, one firm or local counsel in each relevant jurisdiction (which may include a single special counsel acting in multiple jurisdictions) of any such Indemnified Party arising out of or relating to any action, claim, litigation, investigation or other proceeding (including any inquiry or investigation of the

foregoing) (regardless of whether such Indemnified Party is a party thereto or whether or not such action, claim, litigation or proceeding was brought by the Borrower, its equity holders, affiliates or creditors or any other third person), arising out of, or with respect to the Transactions or to the execution, delivery, enforcement, performance and administration of this Agreement, the other Credit Documents and any such other documents or the use of the proceeds of the Loans or Letters of Credit, including any of the foregoing relating to the violation of, noncompliance with or liability under, any Environmental Law or any actual or alleged presence of or Release of Hazardous Materials applicable to the Borrower, any of its Subsidiaries or any of the Real Property (all the foregoing in this clause (iii), collectively, the “indemnified liabilities”); provided that the Borrower shall have no obligation hereunder to any Indemnified Party with respect to indemnified liabilities arising from (i) the gross negligence, bad faith or willful misconduct of such Indemnified Party or any of its Related Parties as determined in a final and nonappealable judgment as determined by a court of competent jurisdiction, (ii) a material breach of the obligations of such Indemnified Party or any of its Related Parties under the terms of this Agreement by such Indemnified Party or any of its Related Parties as determined in a final and non-appealable judgment as determined by a court of competent jurisdiction, (iii) in addition to clause (ii) above, in the case of any action, claim, litigation, investigation, inquiry or other proceeding initiated by the Borrower against the relevant Indemnified Party, solely from a breach of the obligations of such Indemnified Party or its Related Parties under the terms of this Agreement as determined in a final and non-appealable judgment by a court of competent jurisdiction, or (iv) any proceeding between and among Indemnified Parties that does not involve an act or omission by the direct parent of the Borrower, the Borrower or its Restricted Subsidiaries; provided that the Administrative Agent, the Collateral Agent, the Letter of Credit Issuers, the Swingline Lenders, the Joint Lead Arrangers, the Joint Bookrunners and the Syndication Agent to the extent acting in their capacity as such, shall remain indemnified in respect of such proceeding, to the extent that none of the exceptions set forth in clause (i), (ii), (iii) or (iv) of the immediately preceding proviso applies to such person at such time. All amounts payable under this Section 13.5(a) shall be paid within 10 Business Days after receipt by the Borrower of an invoice relating thereto setting forth such expense in reasonable detail. The agreements in this Section 13.5 shall survive repayment of the Loans and all other amounts payable hereunder.

(b) No Credit Party nor any Indemnified Party shall have any liability for any punitive, indirect or consequential damages resulting from this Agreement or any other Credit Document or arising out of its activities in connection herewith or therewith (whether before or after the Effective Date); provided that, nothing in this Section 13.5(b) shall limit any Credit Party’s indemnity obligations to the extent such special, indirect, consequential or punitive damages are included in any third party claim in connection with which an Indemnified Party is entitled to indemnification thereunder. No Indemnified Party shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby, except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of any Indemnified Party or any of its Related Parties.

### 13.6 Successors and Assigns; Participations and Assignments.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of any Letter of Credit Issuer that issues any Letter of Credit), except that (i) except as set forth in Section 10.3(a), the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of any Letter of Credit Issuer that issues any Letter of Credit), Participants (to the extent provided in Section 13.6(d)) and, to the extent expressly contemplated hereby, the Indemnified Parties) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph 13.6(b)(ii), any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Borrower; provided that no consent of the Borrower shall be required (x) for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund (unless increased costs would result therefrom), (y) for an assignment of any Revolving Credit Loan or Additional/Replacement Revolving Credit Loan to a Revolving Credit Lender or an Additional/Replacement Revolving Credit Lender or (z) if an Event of Default under Section 11 has occurred and is continuing; provided, further, that the Borrower shall be deemed to have consented to any such assignment of a Term Loan unless it shall object thereto by written notice to the Administrative Agent within 10 Business Days after having received notice thereof; provided, further, that it shall be understood that, without limitation, the Borrower shall have the right to withhold its consent to any assignment if, in order for such assignment to comply with Applicable Law, the Borrower would be required to obtain the consent of, or make any filing or registration with, any Governmental Authority, and

(B) the Administrative Agent and, in the case of Revolving Credit Commitments or Revolving Credit Loans, each Swingline Lender and each Letter of Credit Issuer; provided that no consent of the Administrative Agent shall be required for an assignment of any Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund or to any Purchasing Borrower Party or any Affiliated Lender.

Notwithstanding the foregoing or anything to the contrary set forth herein, any assignment of any Loans to a Purchasing Borrower Party or any Affiliated Lender shall also be subject to the requirements of Section 13.6(g).

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of (i) an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or (ii) an assignment of the entire remaining amount of the assigning Lender's Commitments or Loans, the amount of the Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than, in the case of Revolving Credit Commitments or Revolving Credit Loans, Additional/Replacement Revolving Credit Commitments or Additional/Replacement Revolving Credit Loans, \$5,000,000 or, in the case of Initial Term Loan Commitments, Incremental Term Loan Commitments or Term Loans, \$1,000,000, unless each of the Borrower and the Administrative Agent otherwise consents; provided that no such consent of the Borrower shall be required if an Event of Default under Section 11 has occurred and is continuing; and provided, further, that contemporaneous assignments to a single assignee made by affiliated Lenders or related Approved Funds or by a single assignor to related Approved Funds shall be aggregated for purposes of meeting the minimum assignment amount requirements stated above;

(B) subject to the terms of Section 13.7(c), the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Acceptance together with a processing fee of \$3,500; provided that (x) a single processing fee of \$3,500 will be payable for multiple assignments by Lenders permitted hereunder that comprise one transaction and are implemented substantially concurrently with one another and (y) the Administrative Agent may, in its sole discretion, elect to waive or reduce such processing fee in the case of any assignment, including assignments effected pursuant to the provisions of Section 13.7;

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent any tax form required by Section 5.4 and an administrative questionnaire in a form approved by the Administrative Agent in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Credit Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and Applicable Laws, including Federal and state securities laws; and



(E) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned, except that this clause (E) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate tranches of Loans (if any) on a non-pro rata basis.

Notwithstanding the foregoing or anything to the contrary set forth herein (i) any assignment of any Loans or Commitments to an Affiliated Lender shall also be subject to the requirements set forth in Section 13.6(g) and (ii) no natural person may be an assignee or Participant with respect to any Loans or Commitments.

(iii) Subject to acceptance and recording thereof pursuant to Section 13.6(b)(vi), from and after the effective date specified in each Assignment and Acceptance, the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits and subject to the requirements of Sections 2.10, 2.11, 5.4 and 13.5). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 13.6 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 13.6(d).

(iv) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the assignee thereunder shall be deemed to confirm to and agree with each other and the other parties hereto as follows: (A) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim and that its Initial Term Loan Commitment, Incremental Term Loan Commitment, Revolving Credit Commitment and Additional/Replacement Revolving Credit Commitment, and the outstanding balances of its Loans, in each case without giving effect to assignments thereof which have not become effective, are as set forth in such Assignment and Acceptance, (B) except as set forth in (A) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Credit Document or any other instrument or document furnished pursuant hereto, or the financial condition of Holdings, the Borrower or any Subsidiary or the performance or observance by Holdings, the Borrower or any Subsidiary of any of its obligations under this Agreement, any other Credit Document or any other instrument or document furnished pursuant hereto; (C) such assignee represents and warrants that it is legally authorized to enter into such Assignment and Acceptance; (D) such assignee confirms that it has received a copy of this Agreement, together with copies of the most recent financial statements referred to in Section 8.9 or delivered pursuant to Section 9.1 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance; (E) such assignee will independently and without reliance upon the Administrative Agent, the Collateral Agent, such

assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (F) such assignee appoints and authorizes the Administrative Agent and the Collateral Agent to take such action as agent on its behalf and to exercise such powers under this Agreement and the other Credit Documents as are delegated to the Administrative Agent and the Collateral Agent, respectively, by the terms hereof, together with such powers as are reasonably incidental thereto; and (G) such assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(v) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans (and interest thereon) and any payment made by any Letter of Credit Issuer under any Letter of Credit owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). Further, the Register shall contain the name and address of the Administrative Agent and the lending office through which each such Person acts under this Agreement. The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent, the Collateral Agent, the Letter of Credit Issuers and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register, as in effect at the close of business on the preceding Business Day, shall be available for inspection by (x) the Borrower, the Letter of Credit Issuers and the Collateral Agent and (y) any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(vi) Upon its receipt of and, if required, consent to, a duly completed Assignment and Acceptance executed by an assigning Lender and an assignee, the assignee's completed administrative questionnaire and any tax form required by Section 5.4 (unless the assignee shall already be a Lender hereunder) and any written consent to such assignment required by Section 13.6(b), the Administrative Agent shall promptly accept such Assignment and Acceptance and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless and until it has been recorded in the Register as provided in this paragraph.

(c) Notwithstanding any provision to the contrary, any Lender may assign to one or more wholly owned special purpose funding vehicles (each, an "SPV") all or any portion of its funded Loans (without the corresponding Commitment), without the consent of any Person or the payment of a fee, by execution of a written assignment agreement in a form agreed to by such assigning Lender and such SPV, and may grant any such SPV the option, in such SPV's sole discretion, to provide the Borrower all or any part of any Loans that such assigning Lender would otherwise be obligated to make pursuant to this Agreement. Such SPVs shall have all the rights which a Lender making or holding such Loans would have under this Agreement, but no obligations. Any such assigning Lender shall remain liable for all its original obligations under this Agreement, including its Commitment (although the unused portion thereof shall be reduced

by the principal amount of any Loans held by an SPV). Notwithstanding such assignment, the Administrative Agent and the Borrower may deliver notices to such assigning Lender (as agent for the SPV) and not separately to the SPV unless the Administrative Agent and the Borrower are requested in writing by the SPV to deliver such notices separately to it. Notwithstanding anything herein to the contrary, (i) neither the grant to the SPV nor the exercise by any SPV of such option will increase the costs or expenses or otherwise change the obligations of the Borrower under this Agreement and the other Credit Documents, except, in the case of Section 2.10, 2.11, 3.5 or 5.4, where (A) the increase or change results from a change in any Applicable Law after the SPV becomes an SPV and the assigning Lender notifies the Borrower in writing of such increase or change no later than 90 days after such change in Applicable Law becomes effective or (B) the grant was made with the Borrower's prior written consent, (ii) the assigning Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Credit Document and the receipt of any notices provided by the Administrative Agent and the Borrower (as agent for the SPV) remain the Lender of record hereunder and (iii) no SPV shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the assigning Lender). The Borrower shall, at the request of any such assigning Lender, execute and deliver to such Person as such assigning Lender may designate, a promissory note, substantially in the form of Exhibit H-1, H-2, H-3 or H-4, as applicable (each, a "Note"), in the amount of such assigning Lender's original Note to evidence the Loans of such assigning Lender and related SPV.

(d) (i) Any Lender may, without the consent of the Borrower, the Administrative Agent, the Collateral Agent, the Letter of Credit Issuers or the Swingline Lenders, sell participations to one or more banks or other entities (each, a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, (C) the Borrower, the Administrative Agent, the Collateral Agent, the Letter of Credit Issuers and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and (D) such Lender shall, at the Borrower's request and expense, use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 13.7 with respect to any Participant. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement or any other Credit Document; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 13.1 that affects such Participant. Subject to paragraph (d)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits (and subject to the requirements) of Sections 2.10, 2.11, 5.4 and 13.5 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 13.6(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 13.8(b) as though it were a Lender; provided such Participant agrees to be subject to Section 13.8(a) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.10, 2.11, 3.5 or 5.4 than the applicable Lender would have been entitled to receive with

respect to the participation sold to such Participant, unless (A) the entitlement to a greater payment resulted from a change in any Applicable Law after the Participant became a Participant and the participating Lender notifies the Borrower in writing of such entitlement to a greater payment no later than 90 days after such change in Applicable Law becomes effective or (B) the sale of the participation to such Participant is made with the Borrower's prior written consent. Each Lender having sold a participation in any of its Obligations, acting as a non-fiduciary agent of the Borrower solely for this purpose, shall establish and maintain at its address a record of ownership, in which such Lender shall register by book entry (A) the name and address of each such Participant (and each change thereto, whether by assignment or otherwise) and (B) the rights, interest or obligation of each such Participant in any Obligation, in any Commitment and in any right to receive any interest or principal payment hereunder (the "Participant Register"). Each Lender, acting as a non-fiduciary agent of the Borrower, shall maintain a register of principal, interest and other amounts owing to its Participants. The parties shall treat the Person listed in the Participant Register as the Participant for all purposes of this Agreement notwithstanding notice to the contrary. No Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Credit Event or other obligations under any Credit Document) except to the extent that such disclosure is necessary to establish that any such Commitment, Credit Event or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. Unless otherwise required by the Internal Revenue Service, any disclosure required by the foregoing sentence shall be made by the relevant Lender directly and solely to the Internal Revenue Service. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Any Lender may, without the consent of the Borrower, the Collateral Agent or the Administrative Agent, at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto. In order to facilitate such pledge or assignment, the Borrower hereby agrees that, upon request of any Lender at any time and from time to time after the Borrower has made its initial borrowing hereunder, the Borrower shall provide to such Lender, at the Borrower's own expense, a Note substantially in the form of Exhibit H-1, H-2, H-3 or H-4, as the case may be, evidencing the Term Loans, Revolving Credit Loans, Incremental Term Loans and Additional/Replacement Revolving Credit Loans and Swingline Loans, respectively, owing to such Lender.

(f) Subject to Section 13.16, the Borrower authorizes each Lender to disclose to any Participant, secured creditor of such Lender or assignee (each, a "Transferee") and any prospective Transferee any and all financial information in such Lender's possession concerning the Borrower and its Affiliates that has been delivered to such Lender by or on behalf of the Borrower and its Affiliates pursuant to this Agreement or which has been delivered to such Lender by or on behalf of the Borrower and its Affiliates in connection with such Lender's credit evaluation of the Borrower and its Affiliates prior to becoming a party to this Agreement.

(g) (i) Notwithstanding anything else to the contrary contained in this Agreement, any Lender may assign all or a portion of its Term Loans to any Purchasing Borrower Party or any Affiliated Lender in accordance with Section 13.6(b) (which assignment, if to a Purchasing Borrower Party, will not constitute a prepayment of Loans for any purposes of this Agreement and the other Credit Documents); provided that:

(A) with respect to any assignment to a Purchasing Borrower Party, no Event of Default has occurred or is continuing or would result therefrom;

(B) any Purchasing Borrower Party shall offer to all Lenders of any Class of Term Loans to buy the Term Loans within such Class on a pro rata basis based on the then outstanding principal amount of all Term Loans of such Class, pursuant to procedures to be reasonably agreed between the Administrative Agent and the Borrower;

(C) the assigning Lender and Purchasing Borrower Party or Non-Debt Fund Affiliate purchasing such Lender's Term Loans, as applicable, shall execute and deliver to the Administrative Agent an assignment agreement substantially in the form of Exhibit K hereto (an "Affiliated Lender Assignment and Acceptance") in lieu of an Assignment and Acceptance;

(D) for the avoidance of doubt, Lenders shall not be permitted to assign Revolving Credit Commitments, Revolving Credit Loans, Additional/Replacement Revolving Credit Loans or Additional/Replacement Revolving Credit Commitments to any Purchasing Borrower Party or any Affiliated Lender;

(E) any Term Loans assigned to any Purchasing Borrower Party shall be automatically and permanently cancelled upon the effectiveness of such assignment and will thereafter no longer be outstanding for any purpose hereunder (it being understood that any gains or losses by any Purchasing Borrower Party upon purchase or acquisition and cancellation of such Term Loans shall not be taken into account in the calculation of Excess Cash Flow, Consolidated Net Income and Consolidated EBITDA);

(F) no Purchasing Borrower Party may use the proceeds from Revolving Credit Loans or Swingline Loans or Additional/Replacement Revolving Credit Loans to purchase any Term Loans;

(G) no Term Loan may be assigned to a Non-Debt Fund Affiliate or a Purchasing Borrower Party pursuant to this Section 13.6(g), if after giving effect to such assignment, Non-Debt Fund Affiliates and Purchasing Borrower Parties in the aggregate would own in excess of 25% of the Term Loans of any Class then outstanding (determined as of the time of such purchase);

(H) any purchases (or assignments) of Loans by a Purchasing Borrower Party or a Non-Debt Fund Affiliate made through “dutch auctions” shall (i) be conducted pursuant to procedures to be established by the Administrative Agent that are consistent with this 13.6(g) (i) and are otherwise reasonably acceptable to the Borrower and (ii) require that such Person (A) make a customary representation to all assigning or assignee Lenders, as applicable, that it does not possess material non-public information with respect to the Borrower and its Subsidiaries that either (1) has not been disclosed to the Lenders generally (other than Lenders that have elected not to receive such information) or (2) if not disclosed to the Lenders, could reasonably be expected to have a material effect on, or otherwise be material to (a) a Lender’s decision to participate in any such “dutch auction” or (b) the market price of the Loans (for the avoidance of doubt, no such representation will be required in the case of open market purchases by any Purchasing Borrower Party or any such Non-Debt Fund Affiliate, which may possess such non-material non-public information) and (B) clearly identify itself as a Purchasing Borrower Party or a Non-Debt Fund Affiliate, as the case may be, in any assignment and assumption agreement executed in connection with such purchases or assignments;

(I) Neither the Administrative Agent nor any Joint Lead Arranger will have any obligation to participate in, arrange, sell or otherwise facilitate, and will have no liability in connection with, any open market purchases (or assignments) of Loans by any Purchasing Borrower Party.

(ii) Notwithstanding anything to the contrary in this Agreement, no Non-Debt Fund Affiliate or a Purchasing Borrower Party shall have any right to (A) attend (including by telephone) any meeting or discussions (or portion thereof) among the Administrative Agent or any Lender to which representatives of the Credit Parties are not invited, (B) receive any information or material prepared by Administrative Agent or any Lender or any communication by or among the Administrative Agent and/or one or more Lenders, except to the extent such information or materials have been made available to any Credit Party or its representatives (and in any case, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans required to be delivered to Lenders pursuant to Sections 2.1, 3.1, 4.1 and 5.1 of this Agreement), or (C) make or bring (or participate in, other than as a passive participant in or recipient of its pro rata benefits of) any claim, in its capacity as a Lender, against the Administrative Agent, the Collateral Agent or any other Lender with respect to any duties or obligations or alleged duties or obligations of such Agent or any other such Lender under the Credit Documents, except to the extent such claim arises from the gross negligence, bad faith or willful misconduct of the Administrative Agent, the Collateral Agent or any other Lender as determined by a court of competent jurisdiction in a final and non-appealable decision.

(iii) By its acquisition of Term Loans, a Non-Debt Fund Affiliate shall be deemed to have acknowledged and agreed that, if any Credit Party shall be subject to any voluntary or involuntary proceeding commenced under any Debtor Relief Law:

(A) each such Non-Debt Fund Affiliate shall not take any step or action (whether directly or indirectly) in such proceeding to object to, impede, or delay the exercise of any right or the taking of any action by the Administrative Agent (or the taking of any action by a third party to which the Administrative Agent has consented with respect to any disposition of assets by the Borrower or any equity or debt financing to be made to the Borrower), including, without limitation, the filing of any pleading by the Administrative Agent) in (or with respect to any matters related to) the proceeding so long as the Administrative Agent is not taking any action to treat such Non-Debt Fund Affiliate's Loans in a manner that is less favorable to such Non-Debt Fund Affiliate in any material respect than the proposed treatment of similar Obligations held by other Lenders (including, without limitation, objecting to any debtor-in-possession financing, use of cash collateral, grant of adequate protection, sale or disposition, compromise or plan of reorganization); and

(B) each Non-Debt Fund Affiliate shall not have the right to vote in accordance with its discretion, but shall be deemed to have voted in such proceedings in the same proportion as the allocation of voting with respect to such matter by those Lenders who are not Non-Debt Fund Affiliate that have purchased Term Loans, except to the extent that any plan under the Bankruptcy Code proposes to treat the Obligations held by such Non-Debt Fund Affiliate in a manner that is less favorable to such Non-Debt Fund Affiliate in any material respect than the proposed treatment of similar Obligations held by other Lenders. For the avoidance of doubt, except to the extent that any plan under the Bankruptcy Code proposes to treat the Obligations held by any such Non-Debt Fund Affiliate in a manner that is less favorable to such Non-Debt Fund Affiliate in any material respect than the proposed treatment of similar Obligations held by other Lenders, the Administrative Agent is hereby irrevocably authorized and empowered (in the name of such Non-Debt Fund Affiliate) to vote on behalf of such Non-Debt Fund Affiliate or consent on behalf of such Non-Debt Fund Affiliate in any such proceedings with respect to any and all claims of such Non-Debt Fund Affiliate relating to the Obligations. Each Non-Debt Fund Affiliate acknowledges that the foregoing constitutes an irrevocable proxy in favor of the Administrative Agent to vote or consent on behalf of such Non-Debt Fund Affiliate in any proceeding in the manner set forth above and that such Non-Debt Fund Affiliate shall be irrevocably bound to any such votes made or consents given and further shall not challenge or otherwise object to such votes or consents and shall not itself vote or provide consents in the proceeding.

(h) Notwithstanding anything in Section 13.1 or the definition of “Required Lenders” to the contrary, for purposes of determining whether the Required Lenders or any other requisite Class vote required by this Agreement have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Credit Document or any departure by any Credit Party therefrom, (ii) otherwise acted on any matter related to any Credit Document, or (iii) directed or required the Administrative Agent, Collateral Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Credit Document, (A) all Term Loans held by any Non-Debt Fund Affiliate or a Purchasing Borrower Party shall be deemed to be not outstanding for all purposes of calculating whether the Required Lenders (or requisite vote of any Class of Lenders) have taken any actions and (B) the aggregate amount of Term Loans held by Debt Fund Affiliates will be excluded to the extent in excess of 50% of the amount required to constitute “Required Lenders” (any such excess amount shall be deemed to be not outstanding on a pro rata basis among all Debt Fund Affiliates).

(i) Upon any contribution of Term Loans to the Borrower or any Restricted Subsidiary and upon any purchase of Term Loans by a Purchasing Borrower Party (A) the aggregate principal amount (calculated on the face amount thereof) of such Term Loans shall automatically be cancelled and retired by the Borrower on the date of such contribution or purchase (and, if requested by the Administrative Agent, with respect to a contribution of Term Loans, any applicable contributing Lender shall execute and deliver to the Administrative Agent an Assignment and Acceptance, or such other form as may be reasonably requested by the Administrative Agent, in respect thereof pursuant to which the respective Lender assigns its interest in such Loans to the Borrower for immediate cancellation) and (B) the Administrative Agent shall record such cancellation or retirement in the Register.

(j) The Borrower shall maintain at its offices a copy of each Assignment and Acceptance delivered to it by any Non-Debt Fund Affiliate (the “Affiliated Lender Register”). Each Non-Debt Fund Affiliate shall advise the Borrower and the Administrative Agent in writing of (i) any proposed disposition of Term Loans by such Lender. Additionally, if any Lender becomes a Non-Debt Fund Affiliate at a time that such Lender holds any Term Loans, such Lender shall promptly advise the Borrower and the Administrative Agent that such Lender is a Non-Debt Fund Affiliate. Copies of the Affiliated Lender Register shall be provided to the Administrative Agent and the Non-Debt Fund Affiliate upon request. Notwithstanding the foregoing if at any time (if applicable, after giving effect to any proposed assignment to a Non-Debt Fund Affiliate), all Non-Debt Fund Affiliates own or would, in the aggregate own more than 25% of the principal amount of all any Class of Term Loans then outstanding (i) any proposed pending assignment to a Non-Debt Fund Affiliate that would cause such threshold to be exceeded shall not become effective or be recorded in the Affiliated Lender Register, (ii) in the event that a Non-Debt Fund Affiliate has acquired any Term Loans pursuant to an assignment which was not recorded in the Affiliated Lender Register, the assignment of such Term Loans shall be null and void *ab initio* and (iii) if such threshold is exceeded solely as a result of a Lender becoming a Non-Debt Fund Affiliate after it has acquired Term Loans, such Non-Debt Fund Affiliate shall assign sufficient Term Loans of such Class so that Non-Debt Fund Affiliates in the aggregate own less than 25% of the aggregate principal amount of Term Loans of such Class then outstanding. The Administrative Agent may conclusively rely upon the Affiliated Lender Register in connection with any amendment or waiver hereunder and shall not



have any responsibility for monitoring any acquisition or disposition of Term Loans by any Non-Debt Fund Affiliate or for any losses suffered by any Person as a result of any purported assignment to or from an Affiliated Lender.

13.7 Replacements of Lenders under Certain Circumstances. (a) The Borrower, at its sole expense, shall be permitted to replace any Lender (or any Participant) that (a) requests reimbursement for amounts owing pursuant to Section 2.10, 2.11, 3.5 or 5.4, (b) is affected in the manner described in Section 2.10(a)(ii) and as a result thereof any of the actions described in such Section is required to be taken or (c) becomes a Defaulting Lender, with a replacement bank, financial institution or other investor that is an Eligible Assignee; provided, that (i) such replacement does not conflict with any Applicable Law, (ii) no Event of Default shall have occurred and be continuing at the time of such replacement, (iii) the Borrower shall repay (or the replacement bank, financial institution or other investor that is an Eligible Assignee shall purchase, at par) all Loans and pay all other amounts (other than any disputed amounts) owing to such replaced Lender hereunder (including, for the avoidance of doubt, pursuant to Section 2.10, 2.11, 3.5 or 5.4, as the case may be) and under the other Credit Documents prior to the date of replacement of such Lender, (iv) the replacement bank, financial institution or other investor, if not already a Lender, and the terms and conditions of such replacement, shall be reasonably satisfactory to the Administrative Agent, (v) the replaced Lender shall be obligated to make such replacement in accordance with the provisions of Section 13.6 and (vi) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against the replaced Lender or that the replaced Lender shall have against the Borrower and the other parties for indemnity, contribution, payment of disputed and other unpaid amounts and otherwise.

(b) If any Lender (such Lender a “Non-Consenting Lender”) has failed to consent to a proposed amendment, waiver, discharge or termination, which pursuant to the terms of Section 13.1 requires the consent of all of the Lenders affected and with respect to which the Required Lenders shall have granted their consent, then, provided no Event of Default has occurred and is continuing, the Borrower shall have the right (unless such Non-Consenting Lender grants such consent) at its own cost and expense to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to assign its Loans and Commitments to one or more Eligible Assignees reasonably acceptable to the Administrative Agent, provided that: (i) all Obligations of the Borrower owing to such Non-Consenting Lender being replaced shall be paid in full (including any applicable premium under Section 5.1(b)) to such Non-Consenting Lender concurrently with such assignment, (ii) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon, (iii) the replacement Lender shall consent to the proposed amendment, waiver, discharge or termination and (iv) all Lenders (except all Non-Consenting Lenders which are simultaneously replaced) have consented to such proposed amendment, waiver, discharge or termination. In connection with any such assignment, the Borrower, the Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 13.6.

(c) Notwithstanding anything herein to the contrary, each party hereto agrees that any assignment pursuant to the terms of this Section 13.7 may be effected pursuant to an Assignment and Acceptance executed by the Borrower, the Administrative Agent and the assignee and that the Lender making such assignment need not be a party thereto.

13.8 **Adjustments; Set-off.** (a) Except as otherwise set forth herein, if any Lender (a “**Benefited Lender**”) shall at any time receive any payment of all or part of the principal amount of any of its Revolving Credit Loans, Term Loans, Additional/Replacement Revolving Credit Loans and/or the participations in letter of credit obligations or swingline loans held by it, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off, pursuant to events or proceedings of the nature referred to in Section 11.5, or otherwise), resulting in such Lender receiving payment of a greater proportion of the aggregate amount at the Revolving Credit Loans, Term Loans, Additional/Replacement Revolving Credit Loans and/or participations in letter of credit obligations or swingline loans and accrued interest thereon than the proportion received by any other Lender that is entitled thereto, such Benefited Lender shall (i) notify the Administrative Agent of such fact, and (ii) purchase for cash at face value from the other Lenders a participating interest in such portion of each such other Lender’s Revolving Credit Loans, Term Loans, Additional/Replacement Revolving Credit Loans and/or participations in letter of credit obligations or swingline loans, as applicable, or shall provide such other Lenders with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such collateral or proceeds ratably in accordance with the aggregate principal of and accrued interest on their respective Revolving Credit Loans, Term Loans, Additional/Replacement Revolving Credit Loans and/or participations in letter of credit obligations or swingline loans, as applicable and other amounts owing them; provided that, (A) if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest and (B) the provisions of this paragraph shall not be construed to apply to (x) any payment made by Holdings, the Borrower or any other Credit Party pursuant to and in accordance with the express terms of this Agreement and the other Credit Documents, (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans, Commitments or participations in a Letter of Credit Borrowing or Swingline Loans to any assignee or participant or (z) any disproportionate payment obtained by a Lender of any Class as a result of the extension by Lenders of the maturity date or expiration date of some but not all Loans or Commitments of that Class or any increase in the Applicable Margin (or other pricing term, including any fee, discount or premium) in respect of Loans or Commitments of Lenders that have consented to any such extension. Each Credit Party consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Credit Party rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Credit Party in the amount of such participation.

(b) After the occurrence and during the continuance of an Event of Default, in addition to any rights and remedies of the Lenders provided by law, each Lender, Swingline Lender and Letter of Credit Issuer shall have the right, without prior notice to the Borrower, any such notice being expressly waived by the Borrower to the extent permitted by Applicable Law, upon any amount becoming due and payable by the Borrower hereunder (whether at the stated maturity, by acceleration or otherwise) to setoff and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or

indirect, absolute or contingent, matured or unmatured, at any time held or owing by such Lender or any branch, agency or Affiliate thereof to or for the credit or the account of the Borrower, as the case may be; provided, that in the event that any Defaulting Lender shall exercise any such right of set-off, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Swingline Lenders, the Letter of Credit Issuers and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of set-off. Each Lender, Swingline Lender and Letter of Credit Issuer agrees promptly to notify the Borrower and the Administrative Agent after any such set-off and application made by such Lender; provided that the failure to give such notice shall not affect the validity of such set-off and application. Notwithstanding anything in this Section 13.8(b) to the contrary, no Lender nor Swingline Lender or Letter of Credit Issuer will exercise, or attempt to exercise, any right of set-off, banker's lien or the like against any deposit account or property of the Borrower or any other credit party held or maintained by such Lender, Swingline Lender or Letter of Credit Issuer, as applicable, in each case to the extent the deposits or other proceeds of such exercise, or attempt to exercise, any right of set-off, banker's lien or the like are, or are intended to be or are otherwise are held out to be applied to the Obligations hereunder or otherwise secured by the Collateral, without the prior written consent of the Administrative Agent or Collateral Agent.

13.9 Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by facsimile or other electronic transmission (i.e., a "pdf" or "tif")), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. A set of the copies of this Agreement signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

13.10 Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

13.11 Integration. This Agreement and the other Credit Documents represent the agreement of Holdings, the Borrower, the Administrative Agent, the Collateral Agent and the Lenders with respect to the subject matter hereof, and there are no promises, undertakings, representations or warranties by the Collateral Agent, the Administrative Agent or any Lender relative to subject matter hereof not expressly set forth or referred to herein or in the other Credit Documents.

13.12 GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

13.13 Submission to Jurisdiction; Waivers. Each party hereto hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Credit Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive general jurisdiction of the courts of the State of New York, New York County, located in the Borough of Manhattan, the courts of the United States of America for the Southern District of New York and appellate courts from any thereof;

(b) consents that any such action or proceeding shall be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the applicable party at its respective address set forth in Section 13.2 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right of the Collateral Agent or any other Secured Party to effect service of process in any other manner permitted by law or shall limit the right of the Collateral Agent or any other Secured Party to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section 13.13 any special, exemplary, punitive or consequential damages.

13.14 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document), each of the Borrower and Holdings acknowledges and agrees, and acknowledges its Affiliates' understanding, that:

(a) (i) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Collateral Agent and each Joint Lead Arranger are arm's-length commercial transactions between the Borrower, Holdings and their respective Affiliates, on the one hand, and the Administrative Agent, the Collateral Agent and each Joint Lead Arranger, on the other hand, (ii) each of the Borrower and Holdings has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each of the Borrower and Holdings is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents;

(b) (i) each of the Administrative Agent, the Collateral Agent and each Joint Lead Arranger is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, Holdings or any of their respective Affiliates, or any other Person and (ii) neither the Administrative Agent, the Collateral Agent nor any Joint Lead Arranger has

any obligation to the Borrower, Holdings or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents; and

(c) the Administrative Agent, the Collateral Agent and each Joint Lead Arranger and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower, Holdings and their respective Affiliates, and none of the Administrative Agent, the Collateral Agent or the Joint Lead Arrangers has any obligation to disclose any of such interests to the Borrower, Holdings or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrower and Holdings hereby agrees that it will not make any claims against the Administrative Agent, the Collateral Agent or the Joint Lead Arrangers with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated here.

**13.15 WAIVERS OF JURY TRIAL. HOLDINGS, THE BORROWER, THE ADMINISTRATIVE AGENT, THE COLLATERAL AGENT, THE LETTER OF CREDIT ISSUERS AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.**

13.16 Confidentiality. Each Agent, Letter of Credit Issuer and Lender shall hold all non-public information furnished by or on behalf of Holdings and the Borrower and their Subsidiaries in connection with such Lender's evaluation of whether to become a Lender hereunder or obtained by such Lender, such Agent or such Letter of Credit Issuer pursuant to the requirements of this Agreement ("Confidential Information") confidential in accordance with its customary procedure for handling confidential information of this nature and, in the case of a Lender that is a bank, in accordance with safe and sound banking practices and in any event may make disclosure (a) as required or requested by any Governmental Authority or representative thereof or regulatory authority having jurisdiction over it (including any self-regulatory authority or representative thereof) or pursuant to legal process, (b) to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder; provided that, in the case of each of clauses (i) and (ii), the relevant Person is advised of and agrees to be bound by the provisions of this Section 13.16 or other provisions at least as restrictive as this Section 13.16, (c) to such Lender's or such Agent's or such Letter of Credit Issuer's trustees, attorneys, professional advisors or independent auditors, Related Parties, agents or Affiliates, in each case who need to know such information in connection with the administration of the Credit Documents and are informed of the confidential nature of such information, (d) with the consent of the Borrower, (e) to the extent such Confidential Information (i) becomes publicly available other than as a result of a breach of this Section 13.16 or (ii) becomes available to any Agent, any Lender, any Letter of Credit Issuer or any of their respective Affiliates on a nonconfidential basis from a source that is not subject to these confidentiality provisions; provided that unless specifically prohibited by Applicable Law or court order, each Lender, each Agent and each Letter of Credit Issuer shall notify the Borrower of any request by any Governmental Authority

or representative thereof (other than any such request in connection with an examination of the financial condition of such Lender, such Agent or such Letter of Credit Issuer by such Governmental Authority) for disclosure of any such non-public information prior to disclosure of such information, (f) to any rating agency when required or reasonably requested by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any information relating to Credit Parties and their Subsidiaries received by it from such Lender) or to the CUSIP Service Bureau or any similar organization, and (g) in connection with the exercise of any remedies hereunder, under any other Credit Document or the enforcement of its rights hereunder or thereunder; provided, that in no event shall any Lender, any Agent or any Letter of Credit Issuer be obligated or required to return any materials furnished by Holdings, the Borrower or any Subsidiary of the Borrower. Each Lender, each Agent and each Letter of Credit Issuer agrees that it will not provide to prospective Transferees, pledgees referred to in Section 13.6(e) or to prospective direct or indirect contractual counterparties under Hedging Agreements to be entered into in connection with Loans made hereunder any of the Confidential Information unless such Person is advised of and agrees to be bound by the provisions of this Section 13.16. The confidentiality provisions contained herein shall not prohibit disclosures to any trustee, administrator, collateral manager, servicer, backup servicer, lender, rating agency or secured party of any SPV in connection with the evaluation, administration, servicing of, or the reporting on, the assets or securitization activities of such SPV; provided that any such Person is advised of and agrees to be bound by the provisions of this Section 13.16.

13.17 USA PATRIOT Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act.

13.18 Legend. The Initial Term Loans may be issued with original issue discount (“OID”) for U.S. Federal income tax purposes. The issue price, amount of OID, issue date and yield to maturity of these Initial Term Loans may be obtained by writing to the Administrative Agent at the address set forth in Section 13.2.

13.19 Release of Collateral and Guarantee Obligations; Subordination of Liens.

(a) The Lenders hereby irrevocably agree that the Liens granted to the Collateral Agent by the Credit Parties on any Collateral shall be automatically released (i) in full, as set forth in clause (b) below, (ii) upon the sale, transfer or other disposition of such Collateral (including as part of or in connection with any other sale, transfer or other disposition permitted hereunder) to any Person other than another Credit Party, to the extent such sale, transfer or other disposition is made in compliance with the terms of this Agreement (and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Credit Party upon its reasonable request without further inquiry), (iii) to the extent such Collateral is comprised of property leased to a Credit Party by a Person that is not a Credit Party, upon termination or expiration of such lease, (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with Section 13.1), (v) to the extent the property constituting such Collateral

is owned by any Guarantor, upon the release of such Guarantor from its obligations under the Guarantee (in accordance with the second succeeding sentence and Section 25 of the Guarantee), (vi) as required by the Collateral Agent to effect any sale, transfer or other disposition of Collateral in connection with any exercise of remedies of the Collateral Agent pursuant to the Security Documents and (vii) to the extent such Collateral otherwise becomes Excluded Capital Stock or Excluded Property (as defined in the Security Agreement). Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Credit Parties in respect of) all interests retained by the Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Credit Documents. Additionally, the Lenders hereby irrevocably agree that the Guarantors shall be released from the Guarantees upon consummation of any transaction permitted hereunder resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary, or otherwise becoming an Excluded Subsidiary, or, in the case of a Previous Holdings, in accordance with the conditions set forth in the definition of Holdings. The Lenders hereby authorize the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this paragraph, all without the further consent or joinder of any Lender. Any representation, warranty or covenant contained in any Credit Document relating to any such Collateral or Guarantor shall no longer be deemed to be repeated.

(b) Notwithstanding anything to the contrary contained herein or any other Credit Document, when all Obligations (other than (i) Hedging Obligations in respect of any Secured Hedging Agreements, (ii) Cash Management Obligations in respect of any Secured Cash Management Agreements and (iii) any contingent or indemnification obligations not then due) have been paid in full, all Commitments have terminated or expired and no Letter of Credit shall be outstanding that is not Cash Collateralized or back-stopped, upon request of the Borrower, the Administrative Agent and/or Collateral Agent, as applicable, shall (without notice to, or vote or consent of, any Secured Party) take such actions as shall be required to release its security interest in all Collateral, and to release all obligations under any Credit Document, whether or not on the date of such release there may be any (i) Hedging Obligations in respect of any Secured Hedging Agreements, (ii) Cash Management Obligations in respect of any Secured Cash Management Agreements and (iii) any contingent or indemnification obligations not then due. Any such release of Obligations shall be deemed subject to the provision that such Obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made.

(c) Notwithstanding anything to the contrary contained herein or in any other Credit Document, upon request of the Borrower in connection with any Liens permitted by the Credit Documents, the Administrative Agent and/or Collateral Agent, as applicable, shall (without notice to, or vote or consent of, any Secured Party) take such actions as shall be required to subordinate the Lien on any Collateral to any Lien permitted under Sections 10.2(c), (e) (solely as it relates to clauses (c), (f) and (t) of Section 10.2), (f), (i)(ii), (j), (k), (l), (m), (o), (p), (t), (u), (v), (w), (y) and clauses (b), (d), (e), (f), (g), (i) and (o) of the definition of "Permitted Liens."

(d) Notwithstanding the foregoing or anything in the Credit Documents to the contrary, at the direction of the Required Lenders, the Administrative Agent may, in exercising remedies, take any and all necessary and appropriate action to effectuate a credit bid of all Loans (or any lesser amount thereof) for the Borrower's assets in a bankruptcy, foreclosure or other similar proceeding, forbear from exercising remedies upon an Event of Default, or in a bankruptcy proceeding, enter into a settlement agreement on behalf of all Lenders.

13.20 Acknowledgement and Consent to Bail-In of EEA Financial Institutions . Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

[SIGNATURE PAGES FOLLOW]



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## SCHEDULES

**COMMITMENTS OF LENDERS**

[ON FILE WITH THE ADMINISTRATIVE AGENT]

Schedule 1.1(b)

Broker-Dealer Regulated Subsidiaries

LPL Financial LLC, a California limited liability company

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Schedule 1.1(c)

Mortgaged Property

None.

Schedule 8.12

Subsidiaries

| <u>Subsidiary</u>                          | <u>Jurisdiction of Organization</u> | <u>Record and Beneficial Owner</u> | <u>Percentage of Capital Stock Beneficially Owned</u> | <u>Guarantor, Restricted, Unrestricted, Specified, and/or Immaterial Subsidiary</u> |
|--|-------------------------------------|------------------------------------|---|---|
| LPL Holdings, Inc.                         | Massachusetts                       | LPL Financial Holdings Inc.        | 100%  | N/A (Borrower)  |
| LPL Financial LLC                          | California                          | LPL Holdings, Inc.                 | 100%  | Restricted and Specified  |
| Fortigent Holdings Company, Inc.           | Maryland                            | LPL Holdings, Inc.                 | 100%  | Restricted and Immaterial   |
| Fortigent, LLC                             | Maryland                            | Fortigent Holdings Company, Inc.   | 100%  | Restricted and Immaterial   |
| Fortigent Reporting Company LLC            | Maryland                            | Fortigent Holdings Company, Inc.   | 100%  | Restricted and Immaterial   |
| Fortigent Strategies Company, LLC          | Maryland                            | Fortigent Holdings Company, Inc.   | 100%  | Restricted and Immaterial   |
| Independent Advisers Group Corporation     | Delaware                            | LPL Holdings, Inc.                 | 100%  | Guarantor and Restricted  |
| PTC Holdings, Inc.                         | Ohio                                | LPL Holdings, Inc.                 | 100%*   | Restricted  |
| The Private Trust Company, N.A.            | Ohio, National Association          | PTC Holdings, Inc.                 | 100%  | Restricted  |
| LPL Insurance Associates, Inc.             | Delaware                            | LPL Holdings, Inc.                 | 100%  | Guarantor and Restricted  |
| UVEST Financial Services Group, Inc.       | North Carolina                      | LPL Holdings, Inc.                 | 100%  | Restricted and Immaterial   |
| LPL Independent Advisor Services Group LLC | Delaware                            | LPL Holdings, Inc.                 | 100%  | Guarantor and Restricted  |

\* Pursuant to 12 C.F.R. § 7.2005(a), the following members of the board of directors of The Private Trust Company, N.A. each own one share (equal to \$1,000) of class B nonvoting stock of PTC Holdings, Inc.: Keith Libman, Heather Ettinger, Victor Fetter, and Stephen Lank.

| <b>Subsidiary</b>                      | <b>Jurisdiction of Organization</b> | <b>Record and Beneficial Owner</b>         | <b>Percentage of Capital Stock Beneficially Owned</b> | <b>Guarantor, Restricted, Unrestricted, Specified, and/or Immaterial Subsidiary</b> |
|--|-------------------------------------|--|---|---|
| Mutual Service Corporation             | Michigan                            | LPL Independent Advisor Services Group LLC | 100%  | Restricted and Immaterial   |
| Concord Capital Partners, LLC          | Delaware                            | LPL Holdings, Inc.                         | 100%  | Restricted and Immaterial   |
| Concord Equity Group Advisors LLC      | New Jersey                          | Concord Capital Partners LLC               | 100%  | Restricted and Immaterial   |
| LPL Consulting Services, LLC           | Delaware                            | LPL Holdings, Inc.                         | 100%  | Restricted and Immaterial   |
| Sunstone Assurance II, LLC Series CC-1 | Tennessee                           | LPL Holdings, Inc.                         | 100%  | Restricted and  |

Schedule 8.15

Owned Real Property

Tract B, Plat Book E279, Page 3, 11.6161 acres, Fort Mill, South Carolina

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Schedule 9.9

Affiliate Transactions

None.



Schedule 9.17

Post-Closing Obligations

None.

Schedule 10.1(a)

Existing Indebtedness

None.

Schedule 10.1(b)

Existing Intercompany Indebtedness

1. Intercompany Indebtedness in respect of the Annual Allocation Schedule to the Services Agreement dated as of September 1, 2016 by and among LPL Holdings Inc., LPL Financial LLC, PTC Holdings, Inc., and The Private Trust Company, N.A., entered into September 1, 2016 and effective as of January 1, 2016.
2. Intercompany Indebtedness in respect of the Annual Allocation Schedule to the Intercompany Services and Allocation Agreement by and among LPL Holdings Inc., LPL Financial LLC, LPL Insurance Associates, Inc., Fortigent Holdings Company, Inc., and Independent Advisers Group Corporation entered into September 19, 2016 and effective as of January 1, 2016.

Schedule 10.2

Liens

None.

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Schedule 10.4

Dispositions

None.

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Schedule 10.5

Investments

None.

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Schedule 10.12

Burdensome Agreements

None.

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Schedule 13.2

Addresses for Notices

[On file with the Administrative Agent]





1300 Thames Street Wharf, 4th floor  
Baltimore, MD 21231  
Phone: 443-627-4355  
Fax: 718-233-2140  
Email: msloanservicing@morganstanley.com

**Other Notices as Administrative Agent:**

*(For financial statements, compliance certificates, maturity extension and commitment change notices, amendments, consents, vote taking, etc)*

JPMorgan Chase Bank, N.A.  
Loan and Agency Services Group  
500 Stanton Christiana Road, NCC 5, Floor 1  
Newark, DE 19713-2107  
Attention: Jane Dreisbach  
Tel: (302) 634-1704  
Fax: (302) 634-8459  
Email: jane.dreisbach@jpmorgan.com

**For Borrower:**

LPL Holdings, Inc.  
75 State Street  
Boston, MA 02109  
Attn: David P. Bergers, General Counsel  
Phone: (617) 423-3644  
Fax: (617) 556-4002  
Email: david.bergers@lpl.com

With copy to:

Ropes & Gray LLP  
Prudential Tower, 800 Boylston Street  
Boston, MA 02199-3600  
Attn: Michael Lee  
Phone: 617-951-7745  
Email: Michael.Lee@ropesgray.com

## LPL FINANCIAL ANNOUNCES COMPLETION OF LEVERAGE-NEUTRAL DEBT REFINANCING

**SAN DIEGO – March 10, 2017** – LPL Financial Holdings Inc. (NASDAQ: LPLA) today announced that its wholly owned subsidiary, LPL Holdings, Inc. (“LPL Holdings”), has completed its previously announced leverage-neutral debt refinancing transactions.

LPL Holdings today closed the refinancing of its existing senior secured credit facilities with a new seven year Term Loan B in an aggregate principal amount of \$1,700 million and a five year revolving credit facility in an aggregate principal amount of \$500 million, which was undrawn at closing. LPL Holdings used the proceeds of the new Term Loan B, together with the proceeds from the offering of \$500 million aggregate principal amount of 5.750% senior notes and cash from its balance sheet, to repay its existing senior secured credit facilities and to pay accrued interest and related fees and expenses.

LPL Holdings’ new total debt facilities are summarized in the following table:

| Credit Facilities                  | Outstanding Principal Amount<br>(dollars in thousands) | Current Applicable Margin | Maturity  |
|------------------------------------|--|---------------------------|-----------|
| Revolving Credit Facility Loans(a) | \$ —   | LIBOR + 200 bps(d)        | 3/10/2022 |
| Senior Secured Term Loan B(b)      | 1,700,000  | LIBOR + 250 bps(d)        | 3/10/2024 |
| Senior Unsecured Notes(c)          | 500,000  | 5.750% Fixed              | 9/15/2025 |
| <b>Total</b>                       | <b>\$ 2,200,000</b>                                    |                           |           |

- (a) The Revolving Credit Facility has a borrowing capacity of \$500 million, and was undrawn at closing. Loans, if any, will bear interest at a floating rate, which in the case of LIBOR loans will be LIBOR plus 150-200 basis points per annum depending on the secured net leverage ratio of LPL Holdings and its restricted subsidiaries.
- (b) The Term Loan B Credit Facility was issued with 25 basis points of original issue discount and has no leverage or interest coverage maintenance covenants.
- (c) The Senior Notes had no original issue discount, and have no leverage or interest coverage maintenance covenants.
- (d) The LIBOR rate option is one, two, three or six month LIBOR rate, as selected by LPL Holdings, or, with the approval of the applicable lenders, twelve month LIBOR rate or the LIBOR rate for another period acceptable to the Administrative Agent (including a shorter period). The LIBOR rate is subject to an interest rate floor of 0 basis points.

LPL Holdings incurred approximately \$19 million of debt issuance costs, including original issuance discount on the Term Loan B credit facility. Substantially all of the debt issuance costs are expected to be capitalized and amortized over the life of the debt.

The new senior secured credit facilities were managed by an arranger group of nine banks led by J.P. Morgan Securities LLC.

## **Forward-Looking Statements**

Statements in this press release regarding the future amortization of debt issuance costs, as well as any other statements that are not related to present facts or current conditions or that are not purely historical, constitute forward-looking statements. These forward-looking statements are based on the LPL Holdings' historical performance and its plans, estimates, and expectations as of March 10, 2017. The word "expects" and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. Forward-looking statements are not guarantees that the future results, plans, intentions, or expectations expressed or implied will be achieved. Matters subject to forward-looking statements involve known and unknown risks and uncertainties, including economic, legislative, regulatory, competitive, and other factors, which may cause actual results, or the timing of events, to be materially different than those expressed or implied by forward-looking statements. Important factors that could cause or contribute to such differences include the amount of debt issuance costs. Forward-looking statements in this press release should be evaluated together with the risks and uncertainties that affect the business of LPL Financial Holdings Inc. (together with its subsidiaries, the "Company"), including the risk factors set forth in Part I, "Item 1A. Risk Factors" in the Company's 2016 Annual Report on Form 10-K, as may be amended or updated in the Company's Quarterly Reports on Form 10-Q or subsequent filings with the SEC. Except as required by law, the Company specifically disclaims any obligation to update any forward-looking statements as a result of developments occurring after the date of this press release, even if its estimates change, and you should not rely on statements contained herein as representing the Company's views as of any date subsequent to the date of this press release.

## **About LPL Financial**

LPL Financial LLC, a wholly owned subsidiary of LPL Financial Holdings Inc. (NASDAQ:LPLA), is a leader in the retail financial advice market and served approximately \$517 billion in advisory and brokerage assets as of January 31, 2017. LPL is one of the fastest growing RIA custodians and is the nation's largest independent broker-dealer (based on total revenues, Financial Planning magazine June 1996-2016). The Company provides proprietary technology, comprehensive clearing and compliance services, practice management programs and training, and independent research to more than 14,000 independent financial advisors and over 700 financial institutions, enabling them to help their clients turn life's aspirations into financial realities. Advisors associated with LPL also serviced an estimated 46,000 retirement plans with an estimated \$127 billion in retirement plan assets, as of December 31, 2016. LPL also supports approximately 4,000 financial advisors licensed and affiliated with insurance companies with customized clearing, advisory platforms, and technology solutions. LPL Financial and its affiliates have more than 3,200 employees with primary offices in Boston, Charlotte, and San Diego.

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