
SENIOR SECURED SUPER PRIORITY
DEBTOR IN POSSESSION CREDIT AGREEMENT

Dated as of March 3, 2017

Among

ANSWERS HOLDINGS, INC., as Holdings,

ANSWERS CORPORATION, as the Borrower,

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as Administrative Agent and Collateral Agent,

and

THE OTHER LENDERS FROM TIME TO TIME PARTY HERETO

TABLE OF CONTENTS

	Page
Article I Definitions and Accounting Terms.....	2
Section 1.01 Defined Terms	2
Section 1.02 Other Interpretive Provisions.....	29
Section 1.03 Accounting Terms.....	29
Section 1.04 Rounding.....	29
Section 1.05 References to Agreements, Laws, Etc	30
Section 1.06 Times of Day	30
Section 1.07 Timing of Payment or Performance.....	30
Section 1.08 Currency Equivalents Generally	30
Section 1.09 [Reserved].....	31
Section 1.10 Pro Forma and Other Calculations.....	31
Article II The Commitments and Credit Extensions.....	31
Section 2.01 The Loans	31
Section 2.02 Borrowings, Conversions and Continuations of Loans	32
Section 2.03 Letters of Credit.....	33
Section 2.04 [Reserved].....	36
Section 2.05 Prepayments.....	36
Section 2.06 Termination of Commitments.....	37
Section 2.07 Repayment of Loans	37
Section 2.08 Interest	38
Section 2.09 Additional Payments.....	39
Section 2.10 Computation of Interest, Fees	39
Section 2.11 Evidence of Indebtedness	39
Section 2.12 Payments Generally	40
Section 2.13 Sharing of Payments	42
Section 2.14 [Reserved].....	43
Section 2.15 [Reserved].....	43
Section 2.16 Defaulting Lenders	43
Section 2.17 Super Priority Nature of Obligations and Liens	43
Section 2.18 Payment of Obligations	43
Section 2.19 No Discharge; Survival of Claims	43
Section 2.20 Release.....	43
Section 2.21 Waiver of any Priming Rights and Non-Consensual Use of Cash Collateral.....	43
Article III Taxes, Increased Costs Protection and Illegality.....	44
Section 3.01 Taxes.....	44
Section 3.02 Illegality	47
Section 3.03 Inability to Determine Rates	48
Section 3.04 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurocurrency Rate Loans.....	48
Section 3.05 Funding Losses	49
Section 3.06 Matters Applicable to All Requests for Compensation	49

TABLE OF CONTENTS
(continued)

	Page
Section 3.07 Replacement of Lenders under Certain Circumstances	50
Section 3.08 Survival.....	51
Article IV Conditions Precedent to Credit Extensions.....	52
Section 4.01 Conditions of Initial Credit Extension	52
Section 4.02 Conditions of Credit Extensions on Final Order Entry Date and Thereafter.....	54
Article V Representations and Warranties	55
Section 5.01 Existence, Qualification and Power; Compliance with Laws.....	55
Section 5.02 Authorization; No Contravention	55
Section 5.03 Governmental Authorization; Other Consents.....	55
Section 5.04 Binding Effect.....	56
Section 5.05 [Financial Statements; No Material Adverse Effect	56
Section 5.06 Litigation.....	56
Section 5.07 Ownership of Property; Liens.....	56
Section 5.08 Environmental Compliance	57
Section 5.09 Taxes.....	57
Section 5.10 Compliance with ERISA and other Pension Laws; Labor Matters	57
Section 5.11 Subsidiaries; Equity Interests.....	58
Section 5.12 Margin Regulations; Investment Company Act	58
Section 5.13 Disclosure	58
Section 5.14 Intellectual Property; Licenses, Etc	59
Section 5.15 [Reserved].....	59
Section 5.16 Collateral Documents	59
Section 5.17 Use of Proceeds	59
Section 5.18 [Reserved].....	60
Section 5.19 Patriot Act.....	60
Section 5.20 FCPA	60
Section 5.21 Sanctioned Persons	60
Section 5.22 Reorganization Matters.....	60
Article VI Affirmative Covenants.....	61
Section 6.01 Financial Statements.....	61
Section 6.02 Certificates; Other Information.....	62
Section 6.03 Notices	64
Section 6.04 Maintenance of Existence	64
Section 6.05 Maintenance of Properties	65
Section 6.06 Maintenance of Insurance.....	65
Section 6.07 Compliance with Laws	65
Section 6.08 Books and Records	65
Section 6.09 Inspection Rights	65
Section 6.10 Covenant to Guarantee Obligations and Give Security	65
Section 6.11 Use of Proceeds	67
Section 6.12 Further Assurances	67

TABLE OF CONTENTS
(continued)

	Page
Section 6.13 [Reserved].....	67
Section 6.14 Payment of Taxes.....	67
Section 6.15 Nature of Business.....	67
Section 6.16 End of Fiscal Years; Fiscal Quarters	67
Section 6.17 [Reserved].....	67
Section 6.18 Case Milestones	67
Section 6.19 Certain Post-Closing Obligations	68
Section 6.20 Cash Management.....	68
Article VII Negative Covenants.....	68
Section 7.01 Liens	68
Section 7.02 Investments	70
Section 7.03 Indebtedness	71
Section 7.04 Fundamental Changes.....	73
Section 7.05 Dispositions	73
Section 7.06 Restricted Payments.....	73
Section 7.07 Transactions with Affiliates.....	74
Section 7.08 Prepayments, Etc., of Indebtedness	75
Section 7.09 Maximum Cash at Non-Loan Parties.....	75
Section 7.10 Holdings Covenants.....	75
Section 7.11 Negative Pledge	75
Section 7.12 Financial Covenants.....	76
Section 7.13 Changes in Fiscal Periods	77
Section 7.14 Chapter 11 Claims	77
Section 7.15 Critical Vendor and Other Payments	77
Section 7.16 Maximum DIP Obligations.....	77
Article VIII Events of Default and Remedies.....	78
Section 8.01 Events of Default	78
Section 8.02 Remedies Upon Event of Default	81
Section 8.03 [Reserved].....	82
Section 8.04 Application of Funds	82
Section 8.05 [Reserved].....	82
Article IX Administrative Agent and Other Agents.....	82
Section 9.01 Appointment and Authorization of Agents.....	82
Section 9.02 Delegation of Duties	83
Section 9.03 Liability of Agents	83
Section 9.04 Reliance by Agents	84
Section 9.05 Notice of Default	84
Section 9.06 Credit Decision; Disclosure of Information by Agents	84
Section 9.07 Indemnification of Agents	85
Section 9.08 Agents in their Individual Capacities.....	85
Section 9.09 Successor Agents	86
Section 9.10 Administrative Agent May File Proofs of Claim.....	86

TABLE OF CONTENTS

(continued)

	Page
Section 9.11 Collateral and Guaranty Matters.....	87
Section 9.12 Other Agents; Managers	87
Section 9.13 Withholding Tax	87
Section 9.14 [Reserved].....	88
Section 9.15 [Reserved].....	88
Section 9.16 [Reserved].....	88
Article X Miscellaneous.....	88
Section 10.01 Amendments, Etc.....	88
Section 10.02 Notices and Other Communications; Facsimile Copies	90
Section 10.03 No Waiver; Cumulative Remedies	92
Section 10.04 Attorney Costs and Expenses	92
Section 10.05 Indemnification by the Borrower.....	93
Section 10.06 Payments Set Aside	94
Section 10.07 Successors and Assigns	94
Section 10.08 Confidentiality	97
Section 10.09 Setoff.....	98
Section 10.10 Counterparts.....	99
Section 10.11 Integration.....	99
Section 10.12 Survival of Representations and Warranties.....	99
Section 10.13 Severability	99
Section 10.14 GOVERNING LAW.....	99
Section 10.15 WAIVER OF RIGHT TO TRIAL BY JURY.....	100
Section 10.16 Binding Effect.....	100
Section 10.17 Judgment Currency	100
Section 10.18 Lender Action	101
Section 10.19 USA PATRIOT Act.....	101
Section 10.20 Release of Collateral and Guarantee Obligations	101
Section 10.21 Conflicts with Other Loan Documents, Interim Order or Final Order	102

SCHEDULES

1.01A	–	Certain Security Interests and Guarantees
1.01C		Excluded Subsidiaries
1.01D	–	Guarantors
2.01	–	Commitments
2.03(a)	–	Existing Letters of Credit
5.11	–	Subsidiaries
6.19	–	Post Closing
7.01(b)	–	Existing Liens
7.03(b)	–	Existing Indebtedness
7.11		Negative Pledge Clauses
10.02	–	Administrative Agent’s Office, Certain Addresses for Notices

EXHIBITS

Form of		
A	–	Committed Loan Notice
B	–	Note
C	–	Compliance Certificate
D	–	Assignment and Assumption
E	–	Guaranty
F	–	Security Agreement
G	–	Intellectual Property Security Agreement
H	–	Officer’s Certificate
I	–	US Tax Compliance Certificates
J	–	Subordinated Intercompany Note
K	–	Interim Order
L	–	Restructuring Support Agreement

CREDIT AGREEMENT

This SENIOR SECURED SUPER PRIORITY DEBTOR IN POSSESSION CREDIT AGREEMENT is entered into as of March 3, 2017, among ANSWERS CORPORATION, a Delaware corporation (“Borrower”), ANSWERS HOLDINGS, INC., a Delaware corporation (“Holdings”), CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH (“CS”), as Administrative Agent, Collateral Agent and L/C Issuer, and each lender from time to time party hereto (collectively, the “Lenders” and, individually, a “Lender”; each as hereafter further defined).

RECITALS

WHEREAS, on March 3, 2017 (the “Petition Date”), Holdings, the Borrower and each of the Guarantors (the “Debtors”) commenced chapter 11 cases administratively consolidated as Chapter 11 Case No. 17-[] (collectively, the “Chapter 11 Cases”) by filing separate voluntary petitions for reorganization pursuant to chapter 11 of title 11 of the United States Code (such title, the “Bankruptcy Code”) with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). The Debtors continue to operate their businesses and manage their properties as debtors and debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, prior to the Petition Date, financing was provided to the Borrower pursuant to that certain Credit Agreement dated as of October 3, 2014, among Holdings (as successor by merger to Clarity Merger Sub, Inc.), the Borrower (as successor by merger to Clarity I, LLC., a Delaware limited liability company), the lenders party thereto and Credit Suisse AG, Cayman Islands Branch, as administrative agent and collateral agent (as amended, modified or supplemented through the Petition Date, the “Existing First Lien Credit Agreement”);

WHEREAS, the Borrower has requested that Lenders provide a senior secured, super-priority term loan facility of up to \$25,000,000 (the “DIP Credit Facility”) in the aggregate principal amount and a letter of credit facility of \$1,309,906.64 (the “L/C Facility”) in respect of Existing Letters of Credit (as defined herein), to fund the working capital requirements, fees, costs and expenses of Holdings, the Borrower and its Subsidiaries during the pendency of the Chapter 11 Cases, including, for the avoidance of doubt, costs associated with exiting such cases;

WHEREAS, Lenders are willing to make the certain post-petition loans described herein to the Borrower and the L/C Issuer is willing to continue certain existing letters of credit described herein for which the Borrower is an account party, in each case of up to such amounts and upon the terms and conditions set forth herein;

WHEREAS, the Borrower has agreed to secure all of its Obligations under the Loan Documents by granting to the Administrative Agent and the Lenders a security interest in and lien upon all of its existing and after-acquired personal and real property, subject to the terms of the Interim Order and Final Order;

WHEREAS, Holdings and its Subsidiaries (other than any Excluded Subsidiary) are willing to guarantee all of the Obligations of the Borrower under the Loan Documents and to secure all of their obligations under their guarantee by granting to the Administrative Agent and the Lenders a security interest in and lien upon all of their existing and after acquired personal and real property including, without limitation, all of the Equity Interests of the Borrower, subject to the terms of the Interim Order and Final Order; and

WHEREAS, each Subsidiary will receive substantial direct and indirect benefits by reason of the making of loans and other financial accommodations to the Borrower as provided in this Agreement.

NOW, THEREFORE, in consideration of the premises, mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

“Adjusted Eurocurrency Rate” means, for any Interest Period with respect to any Eurocurrency Rate Loan, a rate per annum equal to the greater of (a) 1.00% and (b) the product of (i) the Eurocurrency Rate in effect for such Interest Period and (ii) the Statutory Reserves.

“Administrative Agent” means CS, in its capacity as administrative agent under the Loan Documents, or any successor administrative agent appointed in accordance with Section 9.09.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

“Affiliate” means, 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. “Control” means 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. “Controlling” and “Controlled” have meanings correlative thereto.

“Agent-Related Persons” means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents, advisors and other representatives of such Persons and Affiliates.

“Agents” means, collectively, the Administrative Agent and the Collateral Agent.

“Aggregate Commitments” means the Commitments of all the Lenders.

“Agreement” means this Credit Agreement.

“Agreement Currency” has the meaning specified in Section 10.17.

“Applicable Lending Office” means for any Lender, such Lender’s office, branch or affiliate designated for Eurocurrency Rate Loans, Base Rate Loans, L/C Advances or Letters of Credit, as applicable, as notified to the Administrative Agent and the Borrower or as otherwise specified in the Assignment and Assumption pursuant to which such Lender became a party hereto, any of which offices may, subject to Section 3.01(e) and Section 3.02, be changed by such Lender upon ten (10) days’ prior written notice to the Administrative Agent and the Borrower.

“Applicable Rate” means a percentage per annum equal to:

(a) with respect to Loans, (i) for Loans that are Eurocurrency Rate Loans, 7.00% and (ii) for Loans that are Base Rate Loans, 6.00%.

(b) with respect to Letter of Credit fees, 7.00% per annum.

“Approved Foreign Bank” has the meaning specified in the definition of “Cash Equivalents.”

“Approved Fund” means any Person (other than a natural person) that is 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) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

“Assignees” has the meaning specified in Section 10.07(b).

“Assignment and Assumption” means an Assignment and Assumption substantially in the form of Exhibit D or such other form as shall be reasonably acceptable to the Borrower and the Administrative Agent.

“Attorney Costs” means and includes all reasonable and documented or invoiced out-of-pocket fees, expenses and disbursements of attorneys engaged to advise in connection with this Agreement.

“Audited Financial Statements” means the audited consolidated balance sheets of Holdings and the Borrower for the fiscal year ended December 31, 2016 and the related audited statements of income and cash flows of Holdings and the Borrower for the fiscal year ended December 31, 2016.

“Bankruptcy Code” has the meaning assigned to such term in the recitals.

“Bankruptcy Court” has the meaning assigned to such term in the recitals.

“Base Rate” means a fluctuating interest rate per annum in effect from time to time, which rate per annum shall at all times be equal to the highest of:

(a) the Prime Rate in effect on such day;

(b) ½ of 1% per annum above the Federal Funds Rate in effect on such day; and

(c) the Eurocurrency Rate for an Interest Period of one (1) month on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%; provided that for the avoidance of doubt, for purposes of calculating the Eurocurrency Rate pursuant to this clause (c), the Eurocurrency Rate for any day shall be the rate per annum determined on day at approximately 11:00 a.m. (London time) by reference to the ICE Benchmark Administration Interest Settlement Rates (or the successor thereto if the ICE Benchmark Administration is no longer making a Eurocurrency Rate available) for deposits in Dollars (as set forth by any service selected by the Administrative Agent that has been nominated by the ICE Benchmark Administration (or successor thereto if the ICE Benchmark Administration is no longer making a Eurocurrency Rate available) as an authorized vendor for the purposes of displaying such rates). Any change in such rate due to a change in the Prime Rate, the Federal Funds Rate or the

Eurocurrency Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the Eurocurrency Rate, as the case may be.

Notwithstanding any provision to the contrary in this Agreement, the applicable Base Rate in respect of Loans shall at no time be less than 2.00% per annum.

“Base Rate Loan” means a Loan that bears interest at a rate based on the Base Rate.

“Basel III” means, collectively, those certain agreements on capital requirements, leverage ratios and liquidity standards contained in “Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems,” “Basel III: International Framework for Liquidity Risk Measurement, Standards and Monitoring,” and “Guidance for National Authorities Operating the Countercyclical Capital Buffer,” each as published by the Basel Committee on Banking Supervision in December 2010 (as revised from time to time).

“Board of Directors” means, with respect to any Person, (a) in the case of any corporation, the board of directors of such Person or any committee thereof duly authorized to act on behalf of such board, (b) in the case of any limited liability company, the board of managers or board of directors of such Person, (c) in the case of any partnership, the board of directors or board of managers of a general partner of such Person and (d) in any other case, the functional equivalent of the foregoing.

“Borrower” has the meaning specified in the introductory paragraph to this Agreement.

“Borrower Materials” has the meaning specified in Section 10.02(b)(i).

“Borrowing” means the Incurrence of Loans on the Closing Date (or resulting from conversions on a given date after the Closing Date) having, in the case of Eurocurrency Loans, the same Interest Period or (b) the Incurrence of Loans on a given date (or resulting from conversions on a given date) having, in the case of Eurocurrency Loans, the same Interest Period.

“Budget” means a written budget for the period from the Petition Date through the Maturity Date setting forth on a line-item basis the Loan Parties’ projected Cash Receipts and Cash Disbursements on a weekly basis, which budget shall be in form and substance acceptable to the Administrative Agent and the Required Lenders and which shall not be modified without the prior written consent of the Required Lenders.

“Business Day” means 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, New York City; provided that if such day relates to any interest rate settings as to a Eurocurrency Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurocurrency Rate Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, Business Day also means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurocurrency market.

“Calendar Week” means a week consisting of each day from Sunday through Saturday.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

“Capitalized Leases” means, as applied to any Person, all leases of property that have been or are required to be, in accordance with GAAP, recorded as capitalized leases of such Person.

“Carve-Out” has the meaning assigned thereto in the Interim Order and, when effective, the Final Order.

“Cash Disbursements” means, for any period, the amount of cash operating and non-operating disbursements for the Borrower and its Subsidiaries during such period, on a consolidated basis, as set forth in the applicable Budget or Variance Report for such period.

“Cash Equivalents” means any of the following types of Investments, to the extent owned by the Borrower or any Subsidiary:

- (1) (i) Dollars and (ii) with respect to any Foreign Subsidiaries, other currencies held by such Foreign Subsidiary in the ordinary course of business;
- (2) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality of the foregoing the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 12 months or less from the date of acquisition;
- (3) certificates of deposit, bankers’ acceptances, time deposits and eurocurrency time deposits with maturities of 12 months or less from the date of acquisition, with any United States or foreign commercial bank having capital and surplus of not less than \$500,000,000 in the case of U.S. banks and \$100,000,000 (or the equivalent in any local currency as of the date of determination) in the case of non-U.S. banks;
- (4) commercial paper or any variable or fixed rate note rated at least “P-2” by Moody’s or at least “A-2” by S&P, and in each case maturing within 12 months after the date of creation thereof and Indebtedness or preferred stock issued by Persons with an Investment Grade Rating from 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 selected by the Borrower), with maturities of 12 months or less from the date of acquisition;
- (5) marketable short-term money market and similar securities having either (a) 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 nationally recognized statistical rating agency selected by the Borrower) or (b) having assets in excess of \$1,000,000,000;
- (6) readily marketable direct obligations issued by any state, commonwealth, province or territory of the United States or any political subdivision or taxing authority thereof having an Investment Grade Rating from 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 selected by the Borrower);
- (7) 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 (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 selected by the Borrower);

(8) with respect to any Foreign Subsidiary: (i) obligations of the national government of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business; provided that such country is a member of the Organization for Economic Cooperation and Development, in each case maturing within one year after the date of investment therein, (ii) certificates of deposit of, bankers acceptances of, or time deposits with, any commercial bank which is organized and existing under the laws of the country in which such Foreign Subsidiary maintains its chief executive office and principal place of business; provided such country is a member of the Organization for Economic Cooperation and Development, and whose short-term commercial paper rating from S&P is at least “A-2” or the equivalent thereof or from Moody’s is at least “P-2” or the equivalent thereof (any such bank being an “Approved Foreign Bank”), and in each case with maturities of not more than 24 months from the date of acquisition and (iii) the equivalent of demand deposit accounts which are maintained with an Approved Foreign Bank;

(9) in the case of investments by any Foreign Subsidiary, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (1) through (8) 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 Foreign Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments described in clauses (1) through (10) of this paragraph.

“Cash Receipts” means, for any period, the cumulative amount of cash receipts for Borrower and its Subsidiaries during such period, on a consolidated basis, as set forth in the applicable Budget or Variance Report for such period.

“Casualty Event” means any event that gives rise to the receipt by the Borrower or any 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.

“CFC” means a “controlled foreign corporation” within the meaning of Section 957 of the Code.

“Change in Law” means the occurrence, after the Closing 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 or interpretation 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 (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) Basel III and all requests, rules, guidelines or directives thereunder or issued in connection therewith, shall, in each case, be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Change of Control” means the earlier to occur of:

(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 (or any Parent Entity of Holdings owned directly or indirectly by 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 under the Exchange Act) of Equity Interests having the power to vote or direct the voting of such Equity Interests for the election of directors of Holdings having a majority of the ordinary voting power for the election of members of the Board of Directors of Holdings; or

(b) at any time Continuing Directors shall not constitute at least a majority of the Board of Directors of Holdings.

provided that, (i) 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) of 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 and (ii) for the purposes of clause (a) of this definition, the members of any Permitted Holder Group will be treated as individual “persons”, and not as a “group”.

“Chapter 11 Cases” has the meaning assigned to such term in the recitals.

“Chapter 11 Plan” has the meaning assigned to such term in Section 6.18(a).

“Closing Date” means the date on which the conditions precedent in Section 4.01 have been satisfied and the initial Borrowing is made.

“Code” means the U.S. Internal Revenue Code of 1986, as amended.

“Collateral” means any and all assets, whether real or personal, tangible or intangible, on which Liens are purported to be granted pursuant to the Collateral Documents as security for the Obligations.

“Collateral Agent” means CS, in its capacity as collateral agent under any of the Loan Documents, or any successor collateral agent appointed in accordance with Section 9.09.

“Collateral and Guarantee Requirement” means, at any time, the requirement that:

(a) the Collateral Agent shall have received each Collateral Document required to be delivered on the Closing Date pursuant to Section 4.01(a)(ii) or, after the Closing Date, pursuant to Section 6.10 or Section 6.12 at such time required by such Collateral Documents or such section to be delivered in each case, duly executed by each Loan Party thereto;

(b) all Obligations shall have been unconditionally guaranteed (the “Guarantees”) by Holdings and each Subsidiary (other than any Excluded Subsidiary) and, other than in the case of Obligations incurred directly by it, the Borrower, including as of the Closing Date those that are listed on Schedule 1.01D (each, a “Guarantor”);

(c) the Obligations shall have been secured pursuant to the Interim Order (or the Final Order, as the case may be) under the Security Agreement by a security interest in (i) all the Equity Interests of the Borrower and (ii) all Equity Interests (other than Excluded Equity Interests) held directly by the Borrower or any Guarantor in any Subsidiary (subject to any limitations on pledging such Equity Interests as set forth herein);

(d) the Obligations shall have been secured by a perfected security interest in accordance with the Interim Order (or Final Order, as the case may be) on substantially all

tangible and intangible assets of Holdings, the Borrower and each other Guarantor (including, without limitation, accounts receivable, inventory, equipment, investment property, intellectual property, other general intangibles, real property and proceeds of the foregoing), in each case, with the priority required by the Collateral Documents;

(e) none of the Collateral shall be subject to any Liens other than Liens permitted by Section 7.01;

(f) (i) except with respect to intercompany Indebtedness, if any Indebtedness for borrowed money in a principal amount in excess of \$1,000,000 (individually) is owing to any Loan Party and such Indebtedness is evidenced by a promissory note, the Collateral Agent shall have received such promissory note, together with undated instruments of transfer with respect thereto endorsed in blank and (ii) with respect to intercompany Indebtedness, all Indebtedness of the Borrower and each of its Subsidiaries that is owing to any Loan Party (or Person required to become a Loan Party) shall be evidenced by the Subordinated Intercompany Note, and the Collateral Agent shall have received such Subordinated Intercompany Note duly executed by the Borrower, each such Subsidiary and each such other Loan Party, together with undated instruments of transfer with respect thereto endorsed in blank;

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary, (a) with respect to leases of real property entered into by any Loan Party, such Loan Party shall not be required to take any action to deliver landlord lien waivers, estoppels and collateral access letters, (b) the Collateral and Guarantee Requirement shall not apply to any of the following assets: (i) any governmental licenses or state or local franchises, charters or authorizations, to the extent a security interest in any such licenses, franchise, charter or authorization would be prohibited or restricted thereby (including any legally effective prohibition or restriction), (ii) assets and personal property for which a pledge thereof or a security interest therein is prohibited by applicable Laws (including any legally effective requirement to obtain the consent of any Governmental Authority), (iii) Excluded Equity Interests, (iv) any intent-to-use trademark application prior to the filing of a "Statement of Use" or "Amendment to Allege Use" with respect thereto, (v) any contract, instrument, document, lease, license or other agreement to which a Loan Party or any of their property (including personal property) is subject with any Person on the Closing Date or the date on which such Subsidiary becomes a Loan Party (in each case, to the extent not entered into in contemplation hereof) if, to the extent and for so long as the grant of a Lien thereon to secure the Obligations constitutes a breach of or a default under, or creates a right of termination in favor of any party (other than any Loan Party) to, such lease, license or other agreement (but only to the extent any of the foregoing is not rendered ineffective by, or is otherwise unenforceable under, the UCC or any applicable Law, including the Bankruptcy Code); and (vi) any lease, license, contract, instrument or other agreements or any property (including personal property) subject to a purchase money security interest, Capitalized Lease Obligation or similar arrangements, in each case to the extent permitted under the Loan Documents, to the extent that a pledge thereof or a security interest therein would violate or invalidate such lease, license, contract, instrument or agreement, purchase money, Capitalized Lease or similar arrangement, or create a right of termination in favor of any other party thereto (other than a Borrower or a Guarantor) after giving effect to the applicable anti-assignment clauses of the Uniform Commercial Code and applicable Laws, including the Bankruptcy Code, other than the proceeds and receivables thereof the assignment of which is expressly deemed effective under applicable Laws notwithstanding such prohibition (the assets excluded pursuant to this clause (b), collectively, the "Excluded Assets"), and (c) no perfection actions beyond the entry of the Interim Order (or, if applicable, the Final Order) shall be required with respect to (i) motor vehicles and other assets and personal property subject to certificates of title and letter of credit rights, except to the extent constituting a supporting obligation for other Collateral as to which perfection is accomplished by the filing of a UCC financing statement or equivalent (it being understood that no actions shall be

required to perfect a security interest in letter of credit rights, other than the filing of a UCC financing statement or equivalent) and (ii) commercial tort claims with an individual value of less than \$1,000,000.

“Collateral Documents” means, collectively, the Security Agreement, the Intellectual Property Security Agreements, the Mortgages, each of the mortgages, collateral assignments, Security Agreement Supplements, Intellectual Property Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Collateral Agent and the Lenders pursuant to Section 4.01(a)(ii), Section 6.10 or Section 6.12 and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

“Commitment” means, with respect to each Lender or L/C Participant, the commitment, if any, of such Lender to make Loans hereunder (or, with respect to an L/C Participant, under the Existing First Lien Credit Agreement) on any Funding Date, expressed as an amount representing the maximum principal amount of Loans to be made by such Lender hereunder on such Funding Date or in the aggregate, as the context may require, as such commitment may be (a) reduced upon the making of Loans pursuant to Section 2.01, and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to an Assignment and Assumption. The amount of each Lender’s Commitment, for each Funding Date and in the aggregate, as of the Effective Date is set forth on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as the case may be. The aggregate principal amount of the Commitments hereunder as of the Effective Date is \$26,309,906.64.

“Commitment Payments” has the meaning provided in Section 2.09(a).

“Committed Loan Notice” means a notice of (a) a Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurocurrency Rate Loans pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A (or such other form as shall be reasonably acceptable to the Borrower and the Administrative Agent).

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“Compensation Period” has the meaning specified in Section 2.12(c)(ii).

“Compliance Certificate” means a certificate substantially in the form of Exhibit C.

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“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.

“Contractual Obligation” means, 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.

“Control” has the meaning specified in the definition of “Affiliate.”

“Credit Extension” means a Borrowing.

“CRO” has the meaning specified in Section 8.01(c).

“Debtors” has the meaning assigned to such term in the recitals.

“Debtor Relief Laws” means the Bankruptcy Code, and all 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 and affecting the rights of creditors generally.

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

“Default Rate” means an interest rate equal to (a) the Base Rate plus (b) the Applicable Rate applicable to Base Rate Loans plus (c) 2.0% per annum; provided that with respect to a Eurocurrency Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan plus 2.0% per annum, in each case, to the fullest extent permitted by applicable Laws.

“Defaulting Lender” means any Lender whose acts or failure to act, whether directly or indirectly, cause it to meet any part of the definition of “Lender Default.”

“DIP Credit Facility” has the meaning assigned to such term in the recitals.

“DIP L/C Agreement” means that certain Senior Secured Super Priority Debtor in Possession Letter of Credit Reimbursement and Security Agreement dated March 3, 2017, between the Borrower and Credit Suisse AG, Cayman Islands Branch, as issuer.

“DIP L/C Facility” means the letter of credit facility under the DIP L/C Agreement.

“DIP L/C Guaranty” means that certain Debtor in Possession Guaranty dated March 3, 2017 between the Borrower, Holdings, certain of their subsidiaries, and Credit Suisse AG, Cayman Islands Branch as L/C Issuer.

“Disclosure Statement” has the meaning assigned to such term in Section 6.18(a).

“Disposition” or “Dispose” means the sale, assignment, transfer, license, lease or other disposition (including any Sale Leaseback and any sale of Equity Interests) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith; provided that “Disposition” and “Dispose” shall not be deemed to include any issuance by Holdings (or any Parent Entity) of any of its Equity Interests to another Person.

“Disqualified Equity Interests” means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition:

(a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests and cash in lieu of fractional shares of such Equity Interests) pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale or casualty or condemnation event so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale or casualty or condemnation event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments and all outstanding Letters of Credit),

(b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests and cash in lieu of fractional shares of such Equity Interests), in whole or in part,

(c) provides for the scheduled payments of dividends in cash prior to the date that is ninety-one (91) days after the Maturity Date, or

(c) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is ninety-one (91) days after the Maturity Date; provided that if such Equity Interests are 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 Equity Interests shall not constitute Disqualified Equity Interests 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 Lender” means any Affiliate of the Borrower, Holdings or any of their respective Subsidiaries.

“Distressed Person” has the meaning specified in the definition of “Lender-Related Distress Event.”

“Dollar” and “\$” mean lawful money of the United States.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of (i) the United States or any state thereof or (ii) the District of Columbia.

“Effective Date” means the date on which all of the conditions in Section 4.01 are satisfied.

“Eligible Assignee” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund and (d) any other Person (other than a natural person) that becomes an Assignee in accordance with Section 10.07(b); provided, however, that in no event shall any Disqualified Lender be an Eligible Assignee.

“Environmental Laws” means any and all Laws relating to pollution or the protection of human health (as relating to exposure to Hazardous Materials) and the environment or natural resources.

“Equity Interests” means, with respect to any Person, all of the shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership or profit interests or units in) such Person and all of the warrants, options or other rights for the purchase, acquisition or exchange from such Person of any of the foregoing (including through convertible securities).

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that is under common control with any Loan Party and is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (b) the failure of any Loan Party or any ERISA Affiliate to make by its due date a required installment under Section 430(j) of the Internal Revenue Code with respect to any Pension Plan; (c) a failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, or the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard, in each case with respect to a Pension Plan, whether or not waived, or a failure to make any required contribution to a Multiemployer Plan; (d) a complete or partial withdrawal by any Loan Party or any ERISA Affiliate from a Multiemployer Plan, notification of any Loan Party or ERISA Affiliate concerning the imposition of Withdrawal Liability or notification that a Multiemployer Plan is insolvent or is in reorganization within the meaning of Title IV of ERISA or that is in endangered or critical status, within the meaning of Section 305 of ERISA; (e) any event or condition which constitutes grounds for a termination under Section 4041A of ERISA, the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (g) the imposition of any liability under Title IV of ERISA, including the imposition of a lien under Section 412 or 430(k) of the Internal Revenue Code or Section 303 or 4068 of ERISA on any property (or rights to property, whether real or personal) of a Loan Party or any ERISA Affiliate, but excluding PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any ERISA Affiliate; (h) a determination that any Pension Plan is, or is expected to be, in “at-risk” status (within the meaning of Section 303(i)(4)(A) of ERISA or Section 430(i)(4)(A) of the Code) or (i) the occurrence of a non-exempt prohibited transaction with respect to any Pension Plan maintained or contributed to by any Loan Party (within the meaning of Section 4975 of the Code or Section 406 of ERISA), which could result in liability to any Loan Party.

“Eurocurrency Rate” means, for any Interest Period with respect to any Eurocurrency Rate Loan:

(a) the rate per annum equal to the rate determined by the Administrative Agent to be the offered rate that appears on the Reuters Screen LIBOR01 (or any successor thereto) for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period;

(b) if the rates referenced in the preceding subsection (a) are not available, the rate which results from interpolating on a linear basis between: (i) the rate appearing on ICE Benchmark Administration page (or on any successor or substitute page of such service) for the longest period (for which that rate is available) which is less than the Interest Period and (ii) the rate appearing on the ICE Benchmark Administration page (or on any successor or substitute page of such service) for the shortest period (for which that rate is available) which exceeds the

Interest Period, each as of approximately 11:00 A.M., London time, two Business Days prior to the commencement of such Interest Period; or

(c) for Interest Periods where no interest rate corresponding to an interest period of the same duration as such Interest Period appears on any such page referenced in the preceding subsections (i) and (ii), such rate shall be determined as provided for in Section 3.03;

provided that, notwithstanding the foregoing, the Eurocurrency Rate shall not be determined to be lower than 0.00%.

“Eurocurrency Rate Loan” means a Loan that bears interest at a rate based on the Adjusted Eurocurrency Rate.

“Event of Default” has the meaning specified in Section 8.01.

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

“Exchange Rate” means, 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 Assets” has the meaning specified in the definition of “Collateral and Guarantee Requirement”.

“Excluded Equity Interests” means the Equity Interests set forth on Schedule 1.01C.¹

“Excluded Subsidiary” means those Subsidiaries set forth on Schedule 1.01C.²

“Excluded Taxes” means any of the following Taxes imposed on or with respect to any Agent or Lender or required to be withheld or deducted from a payment to any Agent or Lender, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Agent or Lender being organized under the laws of, or having its principal office or, in the case of any Lender, its Applicable Lending Office located

¹ [Schedule should list only those equity interests at closing that consist of (1) the same 35% of the voting shares of foreign subsidiaries that are CFCs that are not pledged in support of the prepetition facilities, (2) stock of any subsidiary of any CFC, and (3) JV interests, if any, that cannot be pledged pursuant to a valid restriction that cannot be overcome by a Bankruptcy Court order.]

² [Schedule should only list those subsidiaries that (1) are foreign subsidiaries that are CFCs, (2) subsidiaries of CFCs and (3) JV entities that cannot become a guarantor pursuant to a valid contractual or legal limitation that cannot be waived after the use by the debtors of commercially reasonable efforts.]

in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment requested by the Borrower under Section 3.07) or (ii) such Lender changes its Applicable Lending Office, except in each case to the extent that, pursuant to Section 3.01, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender acquired the applicable interest in a Loan or Commitment or to such Lender immediately before it changed its Applicable Lending Office, (c) Taxes attributable to such Agent's or Lender's failure to comply with Section 3.01(f) and (d) any U.S. federal withholding Taxes imposed under FATCA.

“Existing First Lien Agent” means Credit Suisse AG, Cayman Islands Branch, as administrative agent for the Existing First Lien Lenders under the Existing First Lien Credit Agreement.

“Existing Credit Agreement Indebtedness” means the principal, interest, fees and other amounts, other than contingent obligations not due and payable, outstanding under the Existing Credit Agreements.

“Existing Credit Agreements” means (i) the Existing First Lien Credit Agreement and (ii) the Second Lien Credit Agreement.

“Existing First Lien Credit Agreement” has the meaning assigned thereto in the recitals.

“Existing First Lien Credit Agreement Obligations” means the “Obligations” under (and as defined in) the Existing First Lien Credit Agreement.

“Existing First Lien Lenders” means the lenders party to the Existing First Lien Credit Agreement.

“Existing Letter of Credit” has the meaning specified in Section 2.03(a)(i).

“Exit Payment” has the meaning specified in Section 2.09(c).

“Exit Facilities” means the credit facilities that are subject entirely and exclusively to the terms and provisions of the definitive documentation consistent with the terms set forth in the Exit Facilities Term Sheet (attached as an exhibit to the Restructuring Support Agreement), which documentation shall be in form and substance satisfactory to the Required Consenting First Lien Lenders (as defined in the Restructuring Support Agreement) and the Existing First Lien Agent (including a credit agreement governing the continuation and conversion of the Loans, the “Exit Credit Agreement”).

“Fair Market Value” means 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 determined in good faith by the Borrower.

“Fair Value” and “fair value” mean the amount at which the assets (both tangible and intangible), in their entirety, of the Borrower 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” means Sections 1471 through 1474 of the Code, as of the Closing Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations with respect thereto or official administrative interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any intergovernmental agreements (or related legislation or official administrative rules or practices) implementing the foregoing.

“FCPA” means the Foreign Corrupt Practices Act of 1977, as amended.

“Federal Funds Rate” means, 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 on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds 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 Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) of the quotations for the day of such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it.

“Fee Letter” means the Amended and Restated Fee Letter, dated as of March [3], 2017, among Credit Suisse AG, Cayman Islands Branch, Credit Suisse Securities (USA) LLC, and the Borrower.

“Final Order” has the meaning set forth in Section 4.02.

“Final Order Entry Date” means the date on which the Final Order is entered by the Bankruptcy Court.

“Financial Advisor Costs” means and includes all reasonable and documented or invoiced out-of-pocket fees, expenses and disbursements of financial advisors engaged to advise in connection with this Agreement.

“Financial Officer” of any person shall mean the Chief Financial Officer, principal accounting officer, Treasurer, Assistant Treasurer or Controller of such Person.

“Flood Insurance Laws” means, 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 Pension Event” means (a) a contribution or premium required to be paid to or in respect of each Foreign Plan is not paid in a timely fashion in accordance with the terms thereof and all applicable Law, or taxes, penalties or fees are owing or eligible under any Foreign Plan beyond the date permitted for payment of same; (b) the occurrence of an event respecting any Foreign Plan which would entitle any Person to wind-up or terminate any Foreign Plan, or which could reasonably be expected to adversely affect the tax status thereof; (c) the determination of a going concern unfunded actuarial liability, past service unfunded liability or solvency deficiency respecting any Foreign Plan or (d) the occurrence of an improper withdrawal or transfer of assets from any Foreign Plan.

“Foreign Plan” means any employee pension, retirement or other analogous plan, program, policy, arrangement or agreement maintained by, or contributed to or by, or entered into with, any Loan Party or any Subsidiary with respect to employees outside the United States providing for retirement income or benefits.

“Foreign Subsidiary” means any direct or indirect Subsidiary of the Borrower that is not a Domestic Subsidiary.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fund” means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“Funding Date” means (i) the Effective Date, (ii) the Final Order Entry Date, or (iii) any such later date prior to the Maturity Date as designated by the Borrower on no less than five (5) Business Days’ prior written notice to the Administrative Agent.

“GAAP” means generally accepted accounting principles in the United States of America, as in effect from time to time; 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 Closing 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. Notwithstanding anything herein to the contrary, it is understood and agreed that all obligations of any Person that are or would be characterized as operating lease obligations in accordance with GAAP on January 1, 2013 (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 or Capitalized Leases) 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 or Capitalized Leases.

“Governmental Authority” means any nation or government, any state, territorial or other political subdivision thereof, and any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“Granting Lender” has the meaning specified in Section 10.07(h).

“Guarantee Obligations” means, as to any Person, without duplication, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or the payment or performance of such Indebtedness, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so

as to enable the primary obligor to pay such Indebtedness, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part); provided that the term “Guarantee Obligations” shall not include endorsements for collection or deposit, in either case in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or Disposition of assets permitted under this Agreement (other than such obligations 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 related primary obligation, or portion thereof, in respect of which such Guarantee Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

“Guarantees” has the meaning specified in the definition of “Collateral and Guarantee Requirement.”

“Guarantors” has the meaning specified in the definition of “Collateral and Guarantee Requirement.”

“Guaranty” means, collectively, (a) the Guarantee substantially in the form of Exhibit E and (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.10.

“Hazardous Materials” means all substances or wastes regulated as hazardous or toxic or other term of equivalent regulatory import pursuant to any Environmental Law, including petroleum or petroleum distillates, friable asbestos or friable asbestos containing materials and polychlorinated biphenyls.

“Holdings” has the meaning assigned to such term in the introductory paragraph to this Agreement.

“Honor Date” has the meaning specified in Section 2.03(b)(i).

“Incur” means, create, issue, assume, Guarantee, incur or otherwise become directly or indirectly liable for; provided, however, that any Indebtedness of a Person existing at the time such Person becomes a Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Subsidiary. The term “Incurrence” when used as a noun shall have a correlative meaning. Solely for purposes of determining compliance with Section 7.03 with respect to any initial incurrence of Indebtedness:

(a) amortization of debt discount or the accretion of principal with respect to a non-interest bearing or other discount security;

(b) the payment of regularly scheduled interest in the form of additional Indebtedness of the same instrument or the payment of regularly scheduled dividends on Equity Interests in the form of additional Equity Interests of the same class and with the same terms; and

(c) the obligation to pay a premium in respect of Indebtedness arising in connection with the issuance of a notice of prepayment or redemption or making of a mandatory offer to prepay, redeem or purchase such Indebtedness;

will, in each case, not be deemed to be the Incurrence of Indebtedness.

“Indebtedness” means, 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 obligations of such Person for borrowed money and all obligations 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 may have been reimbursed) of all letters of credit (including standby and commercial), banker’s acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;
- (c) net obligations of such Person under any Swap Contract;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable, liabilities or accrued expenses 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 Obligation of such Person;
- (g) all obligations of such Person in respect of Disqualified Equity Interests; 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 assets and (iii) Guarantee Obligations incurred in the ordinary course of business and not supporting or otherwise related to any Indebtedness for borrowed money.

For all purposes hereof, the Indebtedness of any Person shall 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. The amount of Indebtedness of any Person for purposes of clause (e) 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 Liabilities” has the meaning specified in Section 10.05.

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in clause (a) above, Other Taxes.

“Indemnitees” has the meaning specified in Section 10.05.

“Information” has the meaning specified in Section 10.08.

“Intellectual Property Security Agreement” means, collectively, (a) the Intellectual Property Security Agreement executed by certain Loan Parties in the form of Exhibit G, and (b) each other Intellectual Property Security Agreement Supplement executed and delivered pursuant to Section 6.10.

“Intellectual Property Security Agreement Supplement” has the meaning specified in the Intellectual Property Security Agreement.

“Interest Payment Date” means (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the DIP Credit Facility; and (b) as to any Base Rate Loan, the last Business Day of each December, March, June and September and the Maturity Date of the DIP Credit Facility under which such Loan was made.

“Interest Period” means, as to each Eurocurrency Rate Loan, the period commencing on the date such Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one month thereafter as selected by the Borrower in its Committed Loan Notice; provided that:

- (a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;
- (b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and
- (c) no Interest Period shall extend beyond the Maturity Date.

“Interim Order” means that certain interim order (a) authorizing each of the Loan Parties (A) to obtain post-petition financing pursuant to 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3)(1) and 364(d) and (e), (B) to utilize cash collateral pursuant to 11 U.S.C. § 363, (b) granting adequate protection to pre-petition secured parties pursuant to 11 U.S.C. §§ 361, 362, 363 and 364, (c) scheduling a final hearing pursuant to Bankruptcy Rule 4001(b), and (d) to be entered by the Bankruptcy Court in the Chapter 11 Cases in accordance with Section 4.01(l), substantially in the form of Exhibit K or otherwise satisfactory in form and substance to the Administrative Agent.

“Interim Order Entry Date” means the date on which the Interim Order is entered by the Bankruptcy Court.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or Indebtedness or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee Obligation with respect to any obligation of, or purchase or other acquisition of any other Indebtedness or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person (excluding, in the case of the Borrower and its Subsidiaries, intercompany loans, advances, or 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) or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. The amount, as of any

date of determination, of (i) any Investment in the form of a loan or an advance shall be the principal amount thereof outstanding on such date, minus any cash payments actually received by such investor representing interest in respect of such Investment (to the extent any such payment to be deducted does not exceed the remaining principal amount of such Investment), but without any adjustment for write-downs or write-offs (including as a result of forgiveness of any portion thereof) with respect to such loan or advance after the date thereof, (ii) any Investment in the form of a Guarantee shall be equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof, as determined in good faith by a Financial Officer, and (iii) any Investment in the form of a transfer of Equity Interests or other non-cash property or services by the investor to the investee, including any such transfer in the form of a capital contribution, shall be the Fair Market Value of such Equity Interests or other property or services as of the time of the transfer, minus any payments actually received by such investor representing a return of capital of, or dividends or other distributions in respect of, such Investment (to the extent such payments do not exceed, in the aggregate, the original amount of such Investment), but without any other adjustment for increases or decreases in value of, or write-ups, write-downs or write-offs with respect to, such Investment after the date of such Investment. For purposes of Section 7.02, if an Investment involves the acquisition of more than one Person, the amount of such Investment shall be allocated among the acquired Persons in accordance with GAAP; provided that pending the final determination of the amounts to be so allocated in accordance with GAAP, such allocation shall be as reasonably determined by a Financial Officer.

“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 Fitch, Inc.

“IP Rights” has the meaning specified in Section 5.14.

“Judgment Currency” has the meaning specified in Section 10.17.

“KPIs” has the meaning specified in Section 6.02.

“Laws” means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, regulations, ordinances, codes and administrative or judicial precedents, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

“L/C Advance” means, with respect to each L/C Participant, such L/C Participant’s funding of its participation in any L/C Borrowing in accordance with its Pro Rata Share under the Existing First Lien Credit Agreement.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the applicable Honor Date.

“L/C Facility” has the meaning assigned to such term in the recitals.

“L/C Issuer” means Credit Suisse AG, Cayman Islands Branch or any of its Subsidiaries or Affiliates.

“L/C Obligation” means, as at any date of determination, the aggregate maximum amount then available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts in respect of Letters of Credit, including all L/C Borrowings.

“L/C Participant” means each Revolving Lender under the Existing First Lien Credit Agreement, in each case in its capacity as a participant in an Existing Letter of Credit issued under the Existing First Lien Credit Agreement.

“Lender” shall mean (a) the Persons listed on Schedule 2.01 and (b) any other Person that shall become a party hereto as a “lender” pursuant to Section 10.07, in each case other than a Person who ceases to hold any outstanding Loans, Letter of Credit or any Commitment.

“Lender Default” means (i) the refusal (in writing) or failure of any Lender to make available its portion of any Loan or other payment hereunder, or (ii) a Distressed Person has admitted in writing that it is insolvent or such Distressed Person becomes subject to a Lender-Related Distress Event.

“Lender-Related Distress Event” means, with respect to any Lender, that such Lender or any person that directly or indirectly controls such Lender (each, a “Distressed Person”), as the case may be, is or becomes subject to a voluntary or involuntary case with respect to such Distressed Person under any debt relief law, or a custodian, conservator, receiver or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person’s assets, or such Distressed Person or any person that directly or indirectly controls such Distressed Person is subject to a forced liquidation, or such Distressed Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Person or its assets to be, insolvent or bankrupt; provided that a Lender-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any equity interests in any Lender or any person that directly or indirectly controls such Lender by a Governmental Authority or an instrumentality thereof.

“Letter of Credit” means the Existing Letters of Credit outstanding hereunder.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, deemed trust, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capitalized Lease having substantially the same economic effect as any of the foregoing); provided that in no event shall an operating lease be deemed to be a Lien.

“Liquidity Reporting Date” means Friday of each week occurring after the Effective Date, or if any Friday is not a Business Day, the immediately preceding Business Day.

“Loan” means any loan made by the Lenders to the Borrower pursuant to this Agreement.

“Loan Documents” means, collectively, (i) this Agreement, (ii) the Notes, (iii) the Collateral Documents, (iv) the Guaranty, (v) each Letter of Credit, (vi) the Interim Order and the Final Order, (vii) the DIP L/C Agreement, (viii) the DIP L/C Guaranty and (ix) any other document related to this Agreement designated in writing by the Borrower and the Administrative Agent as a “Loan Document”.

“Loan Parties” means, collectively, (i) the Borrower, (ii) Holdings and (iii) each other Guarantor.

“Management Stockholders” means the members of management of the Borrower or any of its Subsidiaries who are (directly or indirectly through one or more investment vehicles) investors in Holdings or any Parent Entity.

“Material Adverse Effect” means a circumstance or condition that would materially and adversely affect (a) the business or financial condition of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of the Borrower and the other Loan Parties, taken as a whole, to perform their payment obligations under the Loan Documents to which it is a party or (c) the rights and remedies of the Agents and the Lenders under the Loan Documents.

“Material Real Property” means any real property with a book value (at the time of acquisition) in excess of \$100,000 owned by any Loan Party.

“Maturity Date” means the earliest to occur of (i) six months after the Petition Date, (ii) the Plan Effective Date, (iii) the date all DIP Loans become due and payable under the DIP Documents, whether by acceleration or otherwise, and (iv) the date of the closing of a sale, transfer or other disposition of all or substantially all of the assets of (A) Holdings, (B) the Borrower, or (C) the consolidated Subsidiaries of the Borrower; provided that if any such day is not a Business Day, the Maturity Date shall be the Business Day immediately preceding such day.

“Monthly KPI Reports” has the meaning specified in Section 6.02.

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA, to which any Loan Party or any ERISA Affiliate makes or is obligated to make contributions, or during the immediately preceding six (6) years, has made or been obligated to make contributions.

“Multiply Margin Ratio” means, for any given calendar month, the ratio of total “Gross Profit” for the Multiply business to “Revenues” for the Multiply business, in each case as reported as “monthly total” items in the Monthly KPI Report for such calendar month.

“Net Proceeds” means, with respect to any event, the proceeds received in respect of such event in cash, including (i) any cash received in respect of any non-cash proceeds (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment or earn-out, but excluding any interest payments), but only as and when received, (ii) in the case of a Casualty Event, insurance proceeds, and (iii) in the case of a condemnation or similar event, condemnation awards and similar payments, minus the reasonable fees and out-of-pocket expenses paid by Holdings, the Borrower and the Guarantors in connection with such event.

“Note” means a promissory note made by the Borrower in favor of a Lender and its registered assigns evidencing Loans made by such Lender, in substantially the form of Exhibit B.

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and expenses that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and expenses are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents include the obligation (including guarantee obligations) to pay principal, interest, Letter of Credit commissions, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities and other amounts payable by any Loan Party under any Loan Document.

“OFAC” means U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department or the U.S. Department of State.

“Organization Documents” means (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 any agreement, declaration, 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.

“Other Connection Taxes” means, with respect to any Agent or Lender, Taxes imposed as a result of a present or former connection between such Agent or Lender and the jurisdiction imposing such Tax (other than connections arising from such Agent or Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to, or enforced, any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

“Other Taxes” means all present or future stamp, court or documentary Taxes and any other property, intangible, mortgage recording or similar Taxes which arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than pursuant to an assignment request by the Borrower under Section 3.07).

“Outstanding Amount” means (a) with respect to Loans on any date, the outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Loans (including any refinancing of outstanding Unreimbursed Amounts under Letters of Credit), as the case may be, occurring on such date; and (b) with respect to any L/C Obligations on any date, the outstanding amount thereof on such date and any other changes thereto as of such date, including as a result of any reimbursements of outstanding Unreimbursed Amounts under related Letters of Credit or any reductions in the maximum amount available for drawing under related Letters of Credit taking effect on such date.

“Parent Entity” means 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” has the meaning specified in Section 10.07(e).

“Participant Register” has the meaning specified in Section 10.07(e).

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Plan” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA) other than a Multiemployer Plan, that is subject to Title IV of ERISA and in respect of which any Loan Party or any ERISA Affiliate of a Loan Party is (or, if such plan were terminated would under Section 4062 or Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Permitted Holder Group” means any “group” (within the meaning of Rule 13d-5 of the Exchange Act) owning Equity Interests having the power to vote or direct the voting for the election of directors of Holdings (or any Parent Entity thereof) if a majority of such Equity Interests owned by the group is owned by Permitted Holders.

“Permitted Holders” means any of (a) the Sponsor and (b) the Management Stockholders.

“Permitted Senior Lien” means any valid, enforceable, and non-avoidable Lien that was perfected prior to the Petition Date which is senior in priority to the Liens securing the Existing First Lien Credit Agreement Obligations under applicable law and after giving effect to any subordination or intercreditor agreements and which is (i) permitted under the Existing First Lien Credit Agreement or (ii) has otherwise been approved in writing by the Administrative Agent and the Required Lenders.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Petition Date” has the meaning assigned to such term in the recitals.

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) other than a Foreign Plan or a Multiemployer Plan, established or maintained by any Loan Party.

“Plan Effective Date” means the effective date of the Chapter 11 Plan.

“Platform” has the meaning specified in Section 10.02(b)(i).

“Post-Petition” shall mean the time period subsequent to the filing of the Chapter 11 Cases.

“Prepayment Event” means:

- (a) any sale, transfer or other disposition of any property or asset of the Borrower or any of its Subsidiaries permitted by Section 7.05;
- (b) the receipt by any Loan Party of the proceeds of any Casualty Event, loss of property or assets or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding; or
- (c) the incurrence by the Borrower or any of its Subsidiaries of any Indebtedness, other than Indebtedness permitted under Section 7.03.

“Pre-Petition” means the time period prior to the filing of the Chapter 11 Cases.

“Prime Rate” means the rate of interest per annum announced from time to time by Credit Suisse (or any successor to Credit Suisse in its capacity as Administrative Agent) as its prime commercial lending rate in effect at its principal office in New York City. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer.

“Pro Rata Share” means, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Commitments of such Lender under the DIP Credit Facility at such time and the denominator of which is the amount of the Aggregate Commitments under the DIP Credit Facility at such time.

“Public Lender” has the meaning specified in Section 10.02(b)(i).

“Qualified Equity Interests” means any Equity Interests that are not Disqualified Equity Interests.

“Register” has the meaning specified in Section 10.07(d).

“Release” means any release, spill, leak, discharge, abandonment, disposal, pumping, pouring, emitting, emptying, injecting, leaching, dumping, depositing, dispersing, allowing to escape or migrate into or otherwise enter the environment (including ambient air, surface water, groundwater, wetlands, land, surface, and subsurface strata or within any building, structure, facility or fixture, subject in each case, to human occupation) of any Hazardous Materials.

“Report Date” means the last day of each full Calendar Week following the Petition Date.

“Reportable Event” means, with respect to any Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the thirty (30) day notice period has been waived.

“Required Lenders” means, as of any date of determination, Lenders having outstanding Loans and unused Commitments representing more than 50% of the sum of the aggregate outstanding Loans and unused Commitments at such time.

“Responsible Officer” means the chief executive officer, president, vice president, chief financial officer, treasurer or assistant treasurer or other similar officer of a Loan Party and, as to any document delivered on the Closing Date, any secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest in the Borrower, Holdings or any Parent Entity, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest of the Borrower, Holdings or any Parent Entity.

“Restructuring Support Agreement” means that certain Amended and Restated Restructuring Support Agreement, dated as of January 30, 2017 (as amended, to the extent permitted hereunder) by and among (a) the Borrower, (b) Holdings, (c) all of the Borrower’s direct and indirect subsidiaries, (d) the holders of claims under the Existing First Lien Credit Agreement party thereto, (e) the holders of claims under the Existing Second Lien Credit Agreement party thereto, and (f) Clarity Holdco, L.P., a Delaware limited partnership, and Clarity GP, LLC, a Delaware limited liability company (solely in their capacity as holders of direct and/or indirect existing equity interests in the Debtors), substantially in the form attached hereto as Exhibit L.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, and any successor thereto.

“Sale Leaseback” means any transaction or series of related transactions pursuant to which the Borrower or any of its 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.

“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“Second Lien Administrative Agent” shall have the meaning assigned to the term “Administrative Agent” in the Second Lien Credit Agreement.

“Second Lien Credit Agreement” shall mean that certain Second Lien Credit Agreement, dated as of October 3, 2014, among Holdings, the Borrower, the lenders party thereto, and the Second Lien Administrative Agent.

“Section 6.01 Financials” means the financial statements delivered, or required to be delivered, pursuant to Section 6.01 together with the Compliance Certificate.

“Secured Parties” means, collectively, the Administrative Agent, the Collateral Agent, the L/C Issuer, each L/C Participant, and each Lender, in each case with respect to the Facilities, and each sub-agent pursuant to Section 9.01(c) appointed by the Administrative Agent with respect to matters relating to the Facilities or the Collateral Agent with respect to matters relating to any Collateral Document.

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

“Security Agreement” means, collectively, (a) the Security Agreement executed by certain Loan Parties substantially in the form of Exhibit F and (b) each Security Agreement Supplement executed and delivered pursuant to Section 6.10.

“Security Agreement Supplement” has the meaning specified in the applicable Security Agreement.

“SPC” has the meaning specified in Section 10.07(h).

“Specified Disbursements” means, for any Testing Period, Employee Payments, as such term is reported as a line item in the most recent Variance Report.

“Specified Receipts” means, for any Testing Period, each of the Webcollage Receipts and the ForeSee Receipts, as such terms are reported as line items in the most recent Variance Report.

“Sponsor” means Apax Partners, L.P. and each of its Affiliates and any funds, partnerships or other investment vehicles managed or controlled by it or its Affiliates, but not including, however, any of their operating portfolio companies.

“Statutory Reserves” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the FRB and any other banking authority, domestic or foreign, to which the Administrative Agent or any Lender (including any branch, Affiliate, or other fronting office making or holding a Loan) is subject for Eurocurrency Liabilities (as defined in Regulation D of the Board).

Eurodollar Loans shall be deemed to constitute Eurocurrency Liabilities (as defined in Regulation D of the Board) and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D. Statutory Reserves shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Subordinated Intercompany Note” means the Subordinated Intercompany Note, dated as of the Closing Date, substantially in the form of Exhibit K executed by Holdings, the Borrower and each other Subsidiary of the Borrower.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly or indirectly, through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Subsidiary Guarantor” means, collectively, the Subsidiaries of the Borrower that are Guarantors.

“Taxes” means all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings (including backup withholding) or other charges imposed by any Governmental Authority, and all liabilities (including additions to tax, penalties and interest) with respect thereto.

“Test Date” means March 31, 2017.

“Testing Period” means a cumulative period commencing on the Petition Date through the most recent Report Date.

“Threshold Amount” means \$1,000,000.

“Transaction Expenses” means any fees, costs or expenses incurred or payable by Holdings, the Borrower, or any of their Subsidiaries in connection with the Transactions, this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby.

“Transactions” means, collectively, (a) the execution, delivery and performance by each Loan Party of the Loan Documents to which it is to be a party, the borrowing of Loans and the use of the proceeds thereof, (b) the Chapter 11 Cases and (c) the payment of the Transaction Expenses.

“Type” means as to any Loan, its nature as a Base Rate Loan or a Eurocurrency Loan.

“Unaudited Financial Statements” means the unaudited consolidated balance sheets and related statements of income and cash flows of Holdings and the Borrower, for each fiscal quarter ended after the most recent fiscal year covered by the Audited Financial Statements and at least forty-five (45) days before the Closing Date.

“Uniform Commercial Code” or “UCC” means the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or

similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

“United States” and “U.S.” mean the United States of America.

“Unreimbursed Amount” has the meaning specified in Section 2.03(b)(i).

“Unrestricted Cash” means the aggregate amount of unrestricted cash subject to the Administrative Agent’s Liens and held at such time by the Loan Parties in accounts subject to account control agreements to which the Administrative Agent is a party.

“Unused Commitment Payment” has the meaning specified in Section 2.09(b).

“U.S. Trustee” shall mean the office of the United States Trustee for the Southern District of New York.

“USA PATRIOT Act” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“Variance Period” means, with respect to any Report Date, the period commencing on the first day of the first full Calendar Week after the Petition Date and ending on the Report Date.

“Variance Report” means a variance report for any Variance Period due three Business Days after the Report Date comparing actual cash receipts and disbursements of the Loan Parties with corresponding amounts provided for in the Budget on a line-by-line basis for the current Variance Period and the cumulative Variance Period from the Petition Date, including written descriptions in reasonable detail explaining any material positive or negative variances, and shall otherwise be in form and substance reasonably acceptable to the Administrative Agent.

“Voting Stock” means, with respect to any Person, shares of such Person’s Equity Interests having the right to vote for the election of members of the Board of Directors of such Person under ordinary circumstances.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) 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 (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (ii) the then outstanding principal amount of such Indebtedness.

“Weekly KPI Reports” has the meaning specified in Section 6.02.

“Wholly-Owned” means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (x) director’s qualifying shares and (y) shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly-owned Subsidiaries of such Person.

“Withdrawal Liability” means the liability of a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Withholding Agent” means any Loan Party and the Administrative Agent.

Section 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) 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.”

(b) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(c) (i) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(i) Article, Section, Exhibit and Schedule references are to the Loan Document in which such reference appears.

(ii) The term “including” is by way of example and not limitation.

(iii) 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.

(d) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

Section 1.03 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 Audited Financial Statements, except as otherwise specifically prescribed herein.

(b) [Reserved].

(c) [Reserved].

(d) 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 FASB Accounting Standards Codification 825-Financial Instruments, or any successor thereto (including pursuant to the FASB Accounting Standards Codification), to value any Indebtedness of the Borrower or any subsidiary at “fair value,” as defined therein.

Section 1.04 Rounding. Any financial ratios 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).

Section 1.05 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are permitted by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

Section 1.06 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

Section 1.07 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 the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day.

Section 1.08 Currency Equivalents Generally.

(a) For purposes of any determination under Section 6, Section 7 (other than Section 7.09) or Section 8 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, however, that (x) for purposes of determining compliance with Section 7 with respect to the amount of any Indebtedness, Investment, Disposition, Restricted Payment or payment under Section 7.08 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, Restricted Payment or payment under Section 7.08 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 except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees and expenses reasonably Incurred, in connection with such Refinancing and (z) for the avoidance of doubt, the foregoing provisions of this Section 1.08 shall otherwise apply to such Sections, including with respect to determining whether any Indebtedness or Investment may be Incurred or Disposition, Restricted Payment or payment under Section 7.08 may be made at any time under such Sections. For purposes of Section 7.09, amounts in currencies other than Dollars shall be translated into Dollars at the applicable Exchange Rates used in preparing the most recently delivered Section 6.1 Financials on or prior to such date.

(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.

Section 1.09 [Reserved].

Section 1.10 Pro Forma and Other Calculations. Notwithstanding anything to the contrary herein, financial ratios and tests shall be calculated in the manner prescribed by this Section 1.10. Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by an Authorized Officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. 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 determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower or applicable Subsidiary may designate. For purposes of making the computations 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.

ARTICLE II

THE COMMITMENTS AND CREDIT EXTENSIONS

Section 2.01 The Loans. Subject to the terms and conditions set forth herein,

(a) on and as of the Closing Date and subject to the conditions set forth in Section 4.01, each Lender agrees to make Loans to the Borrower denominated in dollars in a principal amount not exceeding the portion of its Commitment set forth on Schedule 2.01 to be available as of the Closing Date, up to an aggregate principal amount for all Lenders of \$10,000,000 on such date;

(b) on and as of the Final Order Entry Date (and on any such later Funding Date as may be designated by the Borrower in accordance with the procedures in Section 2.02(a) on no less than five (5) Business Days' prior written notice to the Administrative Agent, subject to a cumulative maximum of six (6) total extensions of Loans (including, for the avoidance of doubt, any extension of Loans on the Closing Date and Final Order Entry Date) and provided that no Funding Date may occur less than thirty (30) days after any preceding Funding Date) and subject, in each case, to the conditions set forth in Section 4.02, each Lender agrees to make Loans to the Borrower denominated in dollars in a principal amount not exceeding the portion of its Commitment set forth on Schedule 2.01 to be available as of the Final Order Entry Date, up to a cumulative aggregate principal amount for all Lenders of \$25,000,000, inclusive of any amounts disbursed under clause (a), on such date; and

(c) on and as of the Plan Effective Date, unless a Default or Event of Default has occurred and is continuing and subject in each case to the satisfaction of the conditions precedent set forth in the Exit Facility Credit Agreement and in accordance with and subject to the Chapter 11 Plan, the aggregate principal amount of Loans outstanding hereunder shall, subject to Sections 2.07(a) and 7.16, automatically be converted into an equal amount of first lien loans under the Exit Facilities.

Notwithstanding anything to the contrary in this Section 2.01, each Lender's Commitment shall be permanently reduced and terminated (a) to the extent of the amount funded, immediately and without further action, on the Closing Date, the Final Order Entry Date, or any

subsequent Funding Date, as applicable, after giving effect to the funding of such Lender's Commitment on such date, and (b) in full on the Maturity Date.

Section 2.02 Borrowings, Conversions and Continuations of Loans.

(a) Each Borrowing and each continuation of Eurocurrency Rate Loans shall be made upon the Borrower's notice (which shall be revocable for a Borrowing so long as the Borrower agrees to comply with the applicable provisions of Section 3.05 upon any such revocation) to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than 1:00 p.m. (i) three (3) Business Days prior to the requested date of any Borrowing or continuation of Eurocurrency Rate Loans or any conversion of Base Rate Loans to Eurocurrency Rate Loans, as applicable, and (ii) one (1) Business Day before the requested date of any Borrowing of Base Rate Loans or any conversion of Eurocurrency Rate Loans to Base Rate Loans, as applicable; provided that notwithstanding the foregoing, notice must only be given by 1:00 p.m. on the date of Borrowing in the case of any Borrowing on the Closing Date. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of, conversion to or continuation of Eurocurrency Rate Loans shall be in a principal amount of \$3,000,000 or a whole multiple of \$500,000 in excess thereof; provided, however, that if the total aggregate amount of Commitments at the time of any such Borrowing is less than \$3,000,000, the Borrowing may be for the total aggregate amount of Commitments outstanding at such time. Each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$3,000,000 or a whole multiple of \$100,000 in excess thereof; provided, however, that if the total aggregate amount of Commitments at the time of any such Borrowing is less than \$3,000,000, the Borrowing may be for the total aggregate amount of Commitments outstanding at such time. Each Committed Loan Notice (whether telephonic or written) shall specify (i) whether the Borrower is requesting a Borrowing or a continuation of Eurocurrency Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto, which shall not be longer than one (1) month. If the Borrower fails to specify a Type of Loan in a Committed Loan Notice, then the applicable Loans shall be made as Eurocurrency Rate Loans with an Interest Period of one month. If the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as the same Type of Loan, and if applicable, with the same Interest Period, as such Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurocurrency Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one (1) month. For the avoidance of doubt, the Borrower and Lenders acknowledge and agree that any conversion or continuation of an existing Loan shall be deemed to be a continuation of that Loan with a converted interest rate methodology and not a new Loan.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of such Loans as described in Section 2.02(a). In the case of each Borrowing, each Lender shall make (or cause its Applicable Lending Office to make) the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice; provided that on the 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. Upon satisfaction of the applicable conditions set forth in Section 4.02, to the extent applicable (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of the Administrative Agent with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to the Administrative Agent by the Borrower; provided, further, that if, on the date the Committed Loan Notice with respect to such Borrowing is given by the Borrower, there are L/C Borrowings outstanding, then the proceeds of such Borrowing shall be applied first, to the payment in full of any such L/C Borrowings, and second, to the Borrower as provided above.

(c) Except as otherwise provided herein, a Eurocurrency Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurocurrency Rate Loan, unless the Borrower pays the amount due, if any, under Section 3.05 in connection therewith. During the existence of an Event of Default, the Administrative Agent or the Required Lenders may require that no Loans may be converted to or continued as Eurocurrency Rate Loans.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate Loans upon determination of such rate. The determination of the Eurocurrency Rate by the Administrative Agent shall be conclusive in the absence of manifest error.

(e) Borrowings of more than one Type may be outstanding at the same time; provided that there shall not at any time be more than a total of four (4) Eurocurrency Borrowings outstanding.

Section 2.03 Letters of Credit.

(a) The Letter of Credit Commitments.

(i) It is hereby acknowledged and agreed that each of the letters of credit described in Schedule 2.03(a)(i) (the "Existing Letters of Credit") shall constitute a "Letter of Credit" for all purposes of this Agreement and shall be deemed issued under this Agreement on the Closing Date.

(ii) Each L/C Participant has agreed to participate in such Letters of Credit pursuant to the Existing First Lien Credit Agreement.

(iii) The L/C Issuer shall not issue any new Letters of Credit hereunder or renew or extend the expiry date of any Existing Letter of Credit.

(b) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall promptly notify the Borrower and the Administrative Agent in writing thereof. On the Business Day immediately following the Business Day on which the Borrower shall have received such notice of any payment by the L/C Issuer under a Letter of Credit (or, if the Borrower shall

have received such notice later than 1:00 p.m. on any Business Day, on the second succeeding Business Day) (each such date, an “Honor Date”), the Borrower shall reimburse the L/C Issuer through the Administrative Agent in an amount equal to the amount of such drawing. If the Borrower fails to so reimburse the L/C Issuer by such time, the Administrative Agent shall promptly notify each L/C Participant of the Honor Date, the amount of the unreimbursed drawing (the “Unreimbursed Amount”), and the amount of such L/C Participant’s share thereof pursuant to the terms of the Existing First Lien Credit Agreement. Any funding under the Existing First Lien Credit Agreement (including Section 2.03 thereof) disbursed on the Honor Date in reimbursement of the L/C Issuer, including any related accrued but unpaid fees, shall be deemed to be made and outstanding under this Agreement as a Loan hereunder in accordance with the Interim Order (or the Final Order, as the case may be) ranking *pari passu* with the balance of the Loans.

(ii) With respect to any Unreimbursed Amount in respect of a Letter of Credit that is not fully repaid as provided above, the Borrower shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate.

(iii) Until each L/C Participant funds its Loan pursuant to the Existing First Lien Credit Agreement to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such L/C Participant’s share of such amount shall be solely for the account of the L/C Issuer.

(iv) If, at any time after the L/C Issuer has paid a draw under any Letter of Credit and has received from any L/C Participant such L/C Participant’s L/C Advance in respect of such draw in accordance with the Existing First Lien Credit Agreement which is then outstanding under this Agreement, the Administrative Agent receives for the account of the L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise), the Administrative Agent will distribute to each L/C Participant its “Pro Rata Share” (as defined under the Existing First Lien Credit Agreement) thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such L/C Participant’s L/C Advance was outstanding) in the same funds as those received by the Administrative Agent.

(c) Obligations Absolute. The obligation of the Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit issued by it and to repay each L/C 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 agreement or instrument relating thereto;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that any Loan Party 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 L/C 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) any payment by the L/C 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 L/C 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;

(v) any exchange, release or nonperfection of any Collateral, or any release or amendment or waiver of or consent to departure from the Guaranty or any other guarantee, for all or any of the Obligations of any Loan Party in respect of such Letter of Credit; or

(vi) 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, any Loan Party;

provided that the foregoing shall not excuse the L/C Issuer from liability to the Borrower to the extent of any direct damages (as opposed to consequential or exemplary damages) suffered by the Borrower that are caused by the L/C Issuer's gross negligence or willful misconduct when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof.

(d) Role of L/C Issuer. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the L/C 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 L/C Issuer, any Agent-Related Person nor any of the respective correspondents, participants or assignees of the L/C 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 Lenders or the Required 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. 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 L/C Issuer, any Agent-Related Person, nor any of the respective correspondents, participants or assignees of the L/C Issuer, shall be liable or responsible for any of the matters described in clauses (i) through (iii) of this Section 2.03(d); provided that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the L/C Issuer, and the L/C 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 L/C Issuer's gross negligence or willful misconduct or the L/C Issuer's willful or grossly negligent 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 L/C 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 L/C 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.

(e) [Reserved].

(f) Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each L/C Participant in accordance with its Pro Rata Share (as defined in the Existing First Lien Credit Agreement) a Letter of Credit fee for each Letter of Credit issued pursuant to this Agreement equal to the product of (i) Applicable Rate for Letter of Credit fees and (ii) the daily maximum amount then available to be drawn under such Letter of Credit. Such letter of credit fees shall be computed on a quarterly basis in arrears. Such letter of credit fees shall be due and payable on the last Business Day each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit and thereafter on demand. If there is any change in the Applicable Rate during any quarter, the daily maximum amount of each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(g) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrower shall pay directly to the L/C Issuer for its own account a fronting fee (a "Fronting Fee") with respect to each Letter of Credit issued by it equal to 0.125% per annum (or such other percentage as may be separately agreed to between the L/C Issuer and the Borrower) of the daily maximum amount then available to be drawn under such Letter of Credit. Such fronting fees shall be computed on a quarterly basis in arrears. Such fronting fees shall be due and payable on the first Business Day after the end of each December, March, June and September, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. In addition, the Borrower shall pay directly to the L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C 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 ten (10) Business Days of demand and are nonrefundable.

Section 2.04 [Reserved].

Section 2.05 Prepayments.

(a) Optional Prepayments. The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty (other than any Exit Payments); provided that (1) such notice must be received by the Administrative Agent not later than 1:00 p.m. two (2) Business Days prior to any date of prepayment of such Loans; (2) any prepayment of Eurocurrency Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof; and (3) any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof or, in the case of each of clauses (2) and (3), the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Pro Rata Share of such prepayment. Any prepayment of a Eurocurrency Rate Loan shall be accompanied

by all accrued interest thereon and any additional amounts required pursuant to Section 3.05. Each prepayment of the Loans pursuant to this Section 2.05(a) shall be paid to the Lenders in accordance with their respective Pro Rata Shares. At the Borrower's election in connection with any prepayment pursuant to this Section 2.05(a), such prepayment shall not be applied to any Loan of a Defaulting Lender.

(b) Mandatory Prepayments. In the event and on each occasion that any Net Proceeds are received by or on behalf of Holdings, the Borrower or any Subsidiary in respect of any Prepayment Event, the Borrower shall, within two (2) Business Days after such Net Proceeds are received (or, in the case of a Prepayment Event described in clause (c) of the definition of the term "Prepayment Event," on the date of such Prepayment Event), prepay Borrowings in an aggregate amount equal to 100% of the amount of such Net Proceeds. Notwithstanding the foregoing, (i) any Net Proceeds in respect of a Prepayment Event described in clause (a) of the definition of the term "Prepayment Event" shall not be required to be so applied to the extent that (A) such Net Proceeds are deposited with the L/C Issuer as cash collateral under the L/C Facility pursuant to the terms and conditions thereof, in an aggregate amount not to exceed \$100,000 in the aggregate, or (B) in the case of aggregate Net Proceeds less than \$100,000, the Borrower invests such Net Proceeds in new or existing properties or assets used in the Loan Parties' business and constituting Collateral hereunder, in accordance with the Budget, within 90 days after such Net Proceeds are received (but in no event later than the Maturity Date); and (ii) any Net Proceeds in respect of a Prepayment Event described in clause (b) of the definition of the term "Prepayment Event" in an aggregate amount not to exceed \$100,000 shall not be required to be so applied to the extent that the Borrower invests such Net Proceeds to repair or replace the assets for which such proceeds were received, to the extent constituting Collateral hereunder, in accordance with the Budget, within 90 days after such Net Proceeds are received (but in no event later than the Maturity Date).

(c) Interest, Funding Losses, Etc. All prepayments under this Section 2.05 shall be accompanied by all accrued interest thereon, together with, in the case of any such prepayment of a Eurocurrency Rate Loan on a date other than the last day of an Interest Period therefor, any amounts owing in respect of such Eurocurrency Rate Loan pursuant to Section 3.05.

Notwithstanding any of the other provisions of this Section 2.05, so long as no Event of Default shall have occurred and be continuing, if any prepayment of Eurocurrency Rate Loans is required to be made under this Section 2.05, prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.05, in respect of any such Eurocurrency Rate Loan prior to the last day of the Interest Period therefor, the Borrower may, in its sole discretion, deposit with the Administrative Agent the amount of any such prepayment otherwise required to be made hereunder until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this Section 2.05. Such deposit shall constitute cash collateral for the Eurocurrency Rate Loans to be so prepaid; provided that the Borrower may at any time direct that such deposit be applied to make the applicable payment required pursuant to this Section 2.05.

Section 2.06 Termination of Commitments. The Commitments shall terminate on the Maturity Date.

Section 2.07 Repayment of Loans.

(a) Subject to exchange pursuant to Section 2.01(c), the Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then

unpaid principal amount of each Loan of such Lender on or before the Maturity Date. For the avoidance of doubt, if the Loans outstanding on the Plan Effective Date exceed the amount permitted by Section 7.16, the Borrower shall immediately prepay the Loans in an amount equal to such excess.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period 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 hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be conclusive evidence, absent manifest error, of the existence and amounts of the obligations recorded therein, provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to pay any amounts due hereunder in accordance with the terms of this Agreement. In the event of any inconsistency between the entries made pursuant to paragraphs (b) and (c) of this Section, the accounts maintained by the Administrative Agent pursuant to paragraph (c) of this Section shall control.

(e) Any Lender may request through the Administrative Agent that Loans made by it be evidenced by a Note. In such event, the Borrower shall execute and deliver to such Lender a Note payable to such Lender and its registered assigns and in a form provided by the Administrative Agent and approved by the Borrower.

Section 2.08 Interest.

(a) Subject to the provisions of Section 2.08(b), (i) each Eurocurrency Rate Loan shall bear interest on the Outstanding Amount thereof for each Interest Period at a rate per annum equal to the Adjusted Eurocurrency Rate for such Interest Period plus the Applicable Rate for Eurocurrency Loans then in effect for Eurocurrency Loans and (ii) each Base Rate Loan shall bear interest on the Outstanding Amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate then in effect for Base Rate Loans.

(b) After the occurrence and during the continuance of an Event of Default, the Borrower shall pay interest on the Outstanding Amount hereunder (plus any past due amounts not constituting principal) at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws. Accrued and unpaid interest on any amounts outstanding (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

Section 2.09 Additional Payments.

(a) Commitment Payments. On the Interim Order Entry Date, the Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Pro Rata Share, a commitment payment equal to 2.50% of the total amount of the Commitments made available for borrowing under the Interim Order. On the Final Order Entry Date, the Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Pro Rata Share, a commitment payment (together with the previous commitment payment in this Section 2.09(a), the "Commitment Payments") equal to 2.50% of the total amount of the Commitments (less any such payment made pursuant to this Section 2.09(a) on the Interim Order Entry Date).

(b) Unused Commitment Payment. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Pro Rata Share, an unused commitment payment (the "Unused Commitment Payment") equal to 1.00% per annum on the actual daily amount by which the Commitments exceed the sum of the Outstanding Amount of the Loans. The Unused Commitment Payment shall accrue at all times from the Closing Date until the Maturity Date, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable monthly in arrears on the last Business Day of each month, commencing with the first full month to occur after the Closing Date, and on the Maturity Date for the DIP Credit Facility. The Unused Commitment Payment shall be calculated monthly in arrears.

(c) Exit Payment. Upon any repayment or prepayment of the Loans or reduction of the Commitments (other than in connection with a conversion of Loans to loans under the Exit Facility), the Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Pro Rata Share, an exit payment (the "Exit Payment") equal to 2.50% of the total principal amount of the Loans repaid or prepaid.

(d) Other Payments. The Borrower shall pay to the Administrative Agent such payments and fees as shall have been separately agreed (including pursuant to the Fee Letter) upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

Section 2.10 Computation of Interest, Fees, and Other Payments. All computations of interest on Base Rate Loans shall be made on the basis of a year of three hundred and sixty-five (365) days or three hundred and sixty-six (366) days, as the case may be, and actual days elapsed. All other computations of fees, interest, and other payments shall be made on the basis of a three hundred and sixty (360) day year and actual days elapsed. Interest shall accrue on each Loan for the day on which such Loan is made, and shall not accrue on such Loan, or any portion thereof, for the day on which such Loan or such portion is paid; provided that any such Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one (1) day. Each determination by the Administrative Agent of an interest rate or fee or other payment hereunder shall be conclusive and binding for all purposes, absent manifest error.

Section 2.11 Evidence of Indebtedness.

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury

Regulation Section 5f.103-1(c), as agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive evidence, absent manifest error, of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender and its registered assigns, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount, maturity and currency of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in Section 2.11(c), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records and, in the case of the Administrative Agent, entries in the Register, evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

(c) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.11(a) and (b), and by each Lender in its account or accounts pursuant to Section 2.11(a) and (b), shall be conclusive evidence, absent manifest error, of the amount of principal and interest due and payable or to become account or accounts, such Lender, under this Agreement and the other Loan Documents; provided that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

Section 2.12 Payments Generally.

(a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office and in immediately available funds not later than 3:00 p.m. on the date specified herein or such later time as the Administrative Agent may otherwise determine in its reasonable discretion. The Administrative Agent will promptly distribute to each Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Applicable Lending Office. Unless otherwise agreed by the Administrative Agent, all payments received by the Administrative Agent after 3:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be; provided that if such extension would cause payment of interest on or principal of Eurocurrency Rate Loans to be

made in the next succeeding calendar month, such payment shall be made on the immediately preceding Business Day.

(c) Unless the Borrower or any Lender has notified the Administrative Agent, prior to the date any payment is required to be made by it to the Administrative Agent hereunder, that the Borrower or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrower or such Lender, as the case may be, has timely made such payment and may (but shall not be required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in immediately available funds, then:

(i) if the Borrower failed to make such payment, each Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in immediately available funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in immediately available funds at the Federal Funds Rate; and

(ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in immediately available funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent (the "Compensation Period") at a rate per annum equal to the Federal Funds Rate. When such Lender makes payment to the Administrative Agent (together with all accrued interest thereon), then such payment amount (excluding the amount of any interest which may have accrued and been paid in respect of such late payment) shall constitute such Lender's Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent may make a demand therefor upon the Borrower, and the Borrower shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the rate of Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the Borrower may have against any Lender as a result of any default by such Lender hereunder.

Notwithstanding anything to the contrary in this Section 2.12(c), the Administrative Agent shall have no obligation to make available any payments or corresponding amounts to any Persons prior to the Administrative Agent's receipt of such payments from any Borrower or Lender, as applicable. A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.12(c) shall be conclusive, absent manifest error.

(d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans and to fund participations in Letters of Credit are several and not joint. The failure of any Lender to make any

Loan or to fund any such participation on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 8.04. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's Pro Rata Share of the sum of (a) the Outstanding Amount of all Loans outstanding at such time and (b) the Outstanding Amount of all L/C Obligations outstanding at such time, in repayment or prepayment of such of the outstanding Loans or other Obligations then owing to such Lender.

Section 2.13 Sharing of Payments. If, other than as provided elsewhere in this Agreement, any Lender shall obtain on account of the Loans made by it, or the participations in L/C Obligations held by it, any payment (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share that it is owed (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them and/or such subparticipations in the participations in L/C Obligations held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans or such participations, as the case may be, pro rata with each of them; provided that (x) if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon, (y) the provisions of this Section 2.13 shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in L/C Obligations to any assignee or participant and (z) the provisions of this Section 2.13 shall not be construed to apply to any disproportionate payment obtained by a Lender as a result of the extension by Lenders of the maturity date or expiration date of some but not all Loans or Commitments or any increase in the Applicable Rate (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 to the extent such transaction is permitted hereunder. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.13 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.13 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement

with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

Section 2.14 [Reserved].

Section 2.15 [Reserved].

Section 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) The Unused Commitment Payment shall cease to accrue on any of the Commitments of such Defaulting Lender pursuant to Section 2.09(b);

(b) The Commitment and Outstanding Amount of Loans of such Defaulting Lender shall not be included in determining whether all Lenders or the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 10.01); provided that any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender which affects such Defaulting Lender disproportionately when compared to the other affected Lenders, or increases or extends the Commitment of such Defaulting Lender, shall require the consent of such Defaulting Lender.

Section 2.17 Super Priority Nature of Obligations and Liens. The priority of the Obligations and the Liens of the Administrative Agent and the Lenders on the Collateral owned by the Loan Parties shall be set forth in the Interim Order and the Final Order; such Obligations shall at all times constitute super-priority administrative expense claims, pursuant to section 364(c)(1) of the Bankruptcy Code, having priority over all administrative expenses of the kind specified in, or ordered pursuant to, sections 105, 326, 330, 331, 503(b), 506(c), 507(a), 507(b) or 726 or any other provisions of the Bankruptcy Code, subject only to the Carve-Out. Notwithstanding anything in the Loan Documents to the contrary, the Liens held by the Administrative Agent on the Collateral shall be for the benefit of the Administrative Agent and the Lenders.

Section 2.18 Payment of Obligations. Upon the maturity (whether by acceleration or otherwise) of any of the Obligations under this Agreement or any of the other Loan Documents, the Administrative Agent and the Lenders shall be entitled to immediate payment of such Obligations without further application to or order of the Bankruptcy Court.

Section 2.19 No Discharge; Survival of Claims. Each of Holdings and Borrower, on behalf of itself and its Subsidiaries, agrees that (a) the Obligations hereunder shall not be discharged by the entry of an order confirming a chapter 11 plan in any Chapter 11 Case (and Borrower, on behalf of itself and its Subsidiaries, pursuant to Section 1141(d)(4) of the Bankruptcy Code, hereby waives any such discharge) and (b) the superpriority administrative claim granted to the Administrative Agent and the Lenders pursuant to the Interim Order and Final Order and described therein and the Liens granted to the Administrative Agent pursuant to the Interim Order and Final Order and described therein shall not be affected in any manner by the entry of an order confirming a chapter 11 plan in any Chapter 11 Case.

Section 2.20 Release. Each of Holdings and Borrower, on behalf of itself and its Subsidiaries, hereby agrees to and acknowledges all releases granted in the Interim Order and the Final Order.

Section 2.21 Waiver of any Priming Rights and Non-Consensual Use of Cash Collateral. Upon the Effective Date, and for so long as any Obligations shall be outstanding, each of Holdings and

Borrower, on behalf of itself, its Subsidiaries and its estate, hereby irrevocably waives (i) any right, pursuant to Sections 364(c) or 364(d) of the Bankruptcy Code or otherwise, to grant any Lien of equal or greater priority than the Liens securing the Obligations, or to approve a claim of equal or greater priority than the Obligations, except as permitted under the Interim Order and Final Order, and (ii) any right, pursuant to Section 363 of the Bankruptcy Code or otherwise, to use Collateral proceeds or any other cash collateral (as defined in the Bankruptcy Code) in any manner not permitted by the Loan Documents or otherwise without the consent of the Administrative Agent and the Required Lenders.

ARTICLE III

TAXES, INCREASED COSTS PROTECTION AND ILLEGALITY

Section 3.01 Taxes.

(a) Except as required by Law, any and all payments by any Loan Party to or for the account of any Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any Taxes. If any applicable Withholding Agent shall be required by any Laws to deduct any Taxes from or in respect of any sum payable under any Loan Document to any Agent or any Lender (as determined in such Withholding Agent's good faith discretion), (i) if such Taxes are Indemnified Taxes, the sum payable by the applicable Loan Party shall be increased as necessary so that after all required deductions have been made (including deductions applicable to additional sums payable under this Section 3.01), each of such Agent and such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) such applicable Withholding Agent shall make such deductions, (iii) such applicable Withholding Agent shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Laws, and (iv) within thirty (30) days after the date of such payment by such applicable Withholding Agent to the relevant Governmental Authority (or, if receipts or evidence are not available within thirty (30) days, as soon as possible thereafter), such applicable Withholding Agent shall furnish to Borrower and the Administrative Agent, as applicable, the original or a facsimile copy of a receipt evidencing payment thereof to the extent such a receipt is issued therefor, or other evidence of payment thereof that is reasonably satisfactory to the Administrative Agent.

(b) In addition, the Loan Parties shall timely pay all Other Taxes to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent in its sole discretion, timely reimburse it for the payment of any Other Taxes.

(c) Without duplication of any amounts payable pursuant to Section 3.01(a) or Section 3.01(b), the Loan Parties shall jointly and severally indemnify each Agent and each Lender for (i) the full amount of Indemnified Taxes (including any Indemnified Taxes imposed or asserted by any jurisdiction on amounts payable under this Section 3.01) payable or paid by such Agent and such Lender or required to be withheld from a payment to such Agent or such Lender and (ii) any reasonable expenses arising therefrom or with respect thereto, in each case whether or not such Indemnified 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 the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf, shall be conclusive absent manifest error. Payment under this Section 3.01(c) shall be made within ten (10) days after the date such Lender or such Agent makes a demand therefor.

(d) If any Lender or Agent determines, in its sole and reasonable discretion, that it has received a refund in respect of any Taxes as to which indemnification or additional amounts have been paid to it by a Loan Party pursuant to this Section 3.01, it shall promptly pay an amount equal to such refund as soon as practicable after it is determined that such refund pertains to Taxes as to which indemnification or additional amounts have been paid (but only to the extent of indemnity payments made, or additional amounts paid, by the Loan Party under this Section 3.01 with respect to the Taxes giving rise to such refund) to the applicable Loan Party, net of all reasonable out-of-pocket expenses (including Taxes) of the Lender or Agent, as the case may be and without interest (other than any interest paid by the relevant taxing authority with respect to such refund); provided that the applicable Loan Party, upon the request of the Lender or Agent, as the case may be, shall promptly return such refund (plus penalties, interest or other charges imposed by the applicable Governmental Authority) to such party in the event such party is required to repay such refund to the relevant Governmental Authority. Such Lender or Agent, as the case may be, shall, at the applicable Loan Party's request, provide the applicable Loan Party with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant Governmental Authority (provided that such Lender or Agent may delete any information therein that such Lender or Agent reasonably deems confidential). Nothing contained herein shall oblige any Lender or Agent to claim any tax refund or to make available its tax returns or disclose any information relating to its tax affairs or any computations in respect thereof or require any Lender or Agent to do anything that would prejudice its ability to benefit from any other refunds, credits, reliefs, remissions or repayments to which it may be entitled. Notwithstanding anything to the contrary in this clause (d), in no event will an Agent or Lender be required to pay any amount to any Loan Party pursuant to this clause (d) the payment of which would place such Agent or Lender in a less favorable net after-Tax position than such Agent or Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid.

(e) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (c) with respect to such Lender it will, if requested by the Borrower, use commercially reasonable efforts (subject to legal and regulatory restrictions) to designate another Applicable Lending Office for any Loan or Letter of Credit affected by such event; provided that, in the judgment of such Lender, (i) such efforts are made on terms that cause such Lender and its Applicable Lending Office(s) to suffer no material economic, legal or regulatory disadvantage (including any unreimbursed costs or expenses) and would not otherwise be disadvantageous to such Lender, and (ii) such designation of another Applicable Lending Office would eliminate or reduce the amounts payable under Section 3.01(a) or (c); and provided, further, that nothing in this Section 3.01(e) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.01(a) or (c). The Borrower shall pay all costs and expenses incurred by any Lender in connection with any such designation or assignment.

(f) 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 Law, or reasonably requested by the Borrower or the Administrative Agent, certifying as to any entitlement of such Lender to an exemption from, or reduction in, any withholding Tax with respect to any payments to be made to such Lender under any Loan Document. In addition, each Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Laws or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup

withholding or information reporting requirements. Each such Lender shall, whenever a lapse in time or change in circumstances renders such documentation (including any documentation specifically referenced below) expired, obsolete or inaccurate in any material respect, deliver promptly to the Borrower and the Administrative Agent updated or other appropriate documentation or promptly notify the Borrower and the Administrative Agent in writing of its inability to do so. Notwithstanding any other provision of this clause (f), a Lender shall not be required to deliver any form that such Lender is not legally eligible to deliver. Notwithstanding anything to the contrary in this clause (f), the completion, execution and submission of such documentation (other than such documentation set forth in clauses (f)(i), (f)(ii) and (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 generality of the foregoing:

(i) Each Lender that is a "United States person" (as defined in Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement two duly completed copies of Internal Revenue Service Form W-9 (or any successor form) certifying that such Lender is exempt from U.S. federal backup withholding; and

(ii) Each Lender that is not a "United States person" (as defined in Section 7701(a)(30) of the Code) shall 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 when required by law or upon the reasonable request of the Borrower or the Administrative Agent) the following, as applicable:

(A) two duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor forms) claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

(B) two duly completed copies of Internal Revenue Service Form W-8ECI (or any successor forms),

(C) in the case of a Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate, in substantially the form of Exhibit I-1 (any such certificate a "United States Tax Compliance Certificate"), or any other form approved by the Administrative Agent and the Borrower, to the effect that such Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code or (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code, and that no payments in connection with the Loan Documents are effectively connected with such Lender's conduct of a U.S. trade or business and (y) two duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or any successor forms), or

(D) to the extent a Lender is not the beneficial owner (for example, where the Lender is a partnership, or is a Lender that has granted a participation), two duly completed copies of Internal Revenue Service Form W-8IMY (or any successor forms) of the Lender, accompanied by a Form W-8ECI, Form W-

8BEN or W-8BEN-E (or any successor forms), United States Tax Compliance Certificate substantially in the form of Exhibit I-2 or Exhibit I-3 (as applicable), Form W-9, Form W-8IMY (or other successor forms) or any other required information from each beneficial owner, as applicable (provided that if the Lender is a partnership (and not a participating Lender) and one or more beneficial owners are claiming the portfolio interest exemption, the United States Tax Compliance Certificate substantially in the form of Exhibit I-4 shall be provided by such Lender on behalf of such beneficial owner(s)).

(g) If a payment made to a Lender under any Loan 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 Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative 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 Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (g), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(h) For the avoidance of doubt, the term "Lender" shall, for purposes of this Section 3.01, include the L/C Issuer.

Section 3.02 Illegality.

(a) If any Lender reasonably determines that due to any Change in Law after the Closing Date it is unlawful, or that any Governmental Authority that is a court, statutory board or commission has asserted that it is unlawful, for any Lender or its Applicable Lending Office to make, maintain or fund Eurocurrency Rate Loans, to determine or charge interest rates based upon the Adjusted Eurocurrency Rate as contemplated by this Agreement, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, in respect of Eurocurrency Rate Loans, (A) any obligation of such Lender to make or continue Eurocurrency Rate Loans or to convert Base Rate Loans to Eurocurrency Rate Loans, as applicable, shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist, (B) upon receipt of such notice, the Borrower shall upon demand from such Lender (with a copy to the Administrative Agent), prepay in the case of Eurocurrency Rate Loans, such Eurocurrency Rate Loans, that have become unlawful or, if applicable, convert all Eurocurrency Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or promptly, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans, (C) upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted and all amounts due, if any, in connection with such prepayment or conversion under Section 3.05. Each Lender agrees to designate a different Applicable Lending Office if such designation will avoid the need for any such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

(b) If any provision of this Agreement or any of the other Loan Documents would obligate the Borrower to make any payment of interest or other amount payable to any Secured Party in an amount or calculated at a rate which would be prohibited by 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 applicable law.

Section 3.03 Inability to Determine Rates. If the Required Lenders determine that for any reason adequate and reasonable means do not exist for determining the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan, or that the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, or that Dollar deposits are not being offered to banks in the London interbank eurocurrency market for the applicable amount and the Interest Period of such Eurocurrency Rate Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain Eurocurrency Rate Loans shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

Section 3.04 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurocurrency Rate Loans.

(a) If any Lender determines that as a result of any Change in Law after the Closing Date, there shall be any actual increase in the cost to such Lender of agreeing to make or making, funding or maintaining any Eurocurrency Loan or issuing or participating in Letters of Credit, or a reduction in the amount received or receivable by such Lender in connection with any of the foregoing (excluding for purposes of this Section 3.04(a) any such increased costs or reduction in amount resulting from (i) Indemnified Taxes, (ii) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes, (iii) Connection Income Taxes or (iv) reserve requirements contemplated by Section 3.04(c)), then from time to time within fifteen (15) Business Days after demand by such Lender setting forth in reasonable detail such actual increased costs (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such actual Lender for such increased cost or reduction.

(b) If any Lender determines that as a result of a Change in Law regarding capital adequacy after the Closing Date, has the effect of reducing the actual rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of such Lender's obligations hereunder (taking into consideration its policies with respect to capital adequacy and such Lender's desired return on capital), then from time to time upon demand of such Lender setting forth in reasonable detail the charge and the calculation of such actual reduced rate of return (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such reduction within fifteen (15) days after receipt of such demand.

(c) The Borrower shall pay to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits, additional interest on the unpaid principal amount of each Eurocurrency Rate Loan equal to the actual costs of such reserves allocated to such Loan by such

Lender (as determined by such Lender in good faith, which determination shall be conclusive, absent manifest error), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Eurocurrency Rate Loans, such actual additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive, absent manifest error) which in each case shall be due and payable on each date on which interest is payable on such Loan; provided the Borrower shall have received at least fifteen (15) days' prior notice (with a copy to the Administrative Agent) of such additional interest or cost from such Lender. If a Lender fails to give notice fifteen (15) days prior to the relevant Interest Payment Date, such additional interest or cost shall be due and payable fifteen (15) days after receipt of such notice.

(d) Subject to Section 3.06(b), failure or delay on the part of any Lender to demand compensation pursuant to this Section 3.04 shall not constitute a waiver of such Lender's right to demand such compensation.

(e) If any Lender requests compensation under this Section 3.04, then such Lender will, if requested by the Borrower, use commercially reasonable efforts to designate another Applicable Lending Office for any Loan or Letter of Credit affected by such event; provided that, in the judgment of such Lender, (i) such efforts are made on terms that cause such Lender and its Applicable Lending Office(s) to suffer no material economic, legal or regulatory disadvantage (including any unreimbursed costs or expenses) and would not otherwise be disadvantageous to such Lender, and (ii) such designation of another Applicable Lending Office would eliminate or reduce the amounts payable under Section 3.04 and provided, further, that nothing in this Section 3.04(e) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.04(a), (b), (c) or (d). The Borrower shall pay all costs and expenses incurred by any Lender in connection with any such designation or assignment.

Section 3.05 Funding Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any actual loss, cost or expense (but excluding, for the avoidance of doubt, any lost profits) incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Eurocurrency Rate Loan on a day other than the last day of the Interest Period for such Loan; or

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan (other than a Base Rate Loan) on the date or in the amount notified by the Borrower;

including any actual loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees actually paid to terminate the deposits from which such funds were obtained.

Section 3.06 Matters Applicable to All Requests for Compensation.

(a) Any Agent or any Lender claiming compensation under this Article III shall deliver a certificate to the Borrower setting forth the additional amount or amounts to be paid to it hereunder which shall be conclusive in the absence of manifest error. In determining such

amount, such Agent or such Lender may use any reasonable averaging and attribution methods.

(b) With respect to any Lender's claim for compensation under Section 3.02, Section 3.03 or Section 3.04, the Borrower shall not be required to compensate such Lender for any amount incurred more than one hundred and eighty (180) days prior to the date that such Lender becomes aware of the right to receive compensation; 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. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue Eurocurrency Rate Loans from one Interest Period to another, or to convert Base Rate Loans into Eurocurrency Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(c) shall be applicable); provided that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) If the obligation of any Lender to make or continue any Eurocurrency Rate Loan from one Interest Period to another, or to convert Base Rate Loans into Eurocurrency Rate Loans, shall be suspended pursuant to Section 3.06(b) hereof, such Lender's Eurocurrency Rate Loans shall be automatically converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for such Eurocurrency Rate Loans (or, in the case of an immediate conversion required by Section 3.02, on such earlier date as required by Law) and, unless and until such Lender gives notice as provided below that the circumstances specified in Section 3.02, Section 3.03 or Section 3.04 hereof that gave rise to such conversion no longer exist:

(i) to the extent that such Lender's Eurocurrency Rate Loans have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's Eurocurrency Rate Loans shall be applied instead to its Base Rate Loans; and

(ii) all Loans that would otherwise be made or continued from one Interest Period to another by such Lender as Eurocurrency Rate Loans shall be made or continued instead as Base Rate Loans, and all Base Rate Loans of such Lender that would otherwise be converted into Eurocurrency Rate Loans shall remain as Base Rate Loans.

(d) If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.02, Section 3.03 or Section 3.04 hereof that gave rise to the conversion of such Lender's Eurocurrency Rate Loans pursuant to this Section 3.06 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurocurrency Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted to Eurocurrency Rate Loans on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurocurrency Rate Loans to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Eurocurrency Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Commitments.

Section 3.07 Replacement of Lenders under Certain Circumstances.

(a) If at any time any Lender becomes a Defaulting Lender, then the Borrower may, on prior written notice to the Administrative Agent and such Lender, replace such Lender by requiring such Lender to (and such Lender shall be obligated to) assign pursuant to Section 10.07(b) (with the assignment fee to be waived by the Administrative Agent in such instance) all

of its rights and obligations under this Agreement to one or more Eligible Assignees; provided that neither the Administrative Agent nor any Lender shall have any obligation to the Borrower to find a replacement Lender or other such Person; and provided, further, that in the case of any such assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable Eligible Assignees shall have agreed to the applicable departure, waiver or amendment of the Loan Documents.

(b) Any Lender being replaced pursuant to Section 3.07(a) above shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans and participations in L/C Obligations, as applicable; provided that the failure of any such Lender to execute an Assignment and Assumption shall not render such assignment invalid and such assignment shall be recorded in the Register and (ii) deliver Notes, if any, evidencing such Loans to the Borrower or Administrative Agent. Pursuant to such Assignment and Assumption, (A) the assignee Lender shall acquire all or a portion, as the case may be, of the assigning Lender's Commitment and outstanding Loans and participations in L/C Obligations, as applicable, (B) all obligations of the Borrower owing to the assigning Lender relating to the Loans and participations so assigned shall be paid in full by the assignee Lender to such assigning Lender concurrently with such assignment and assumption, and any amounts owing to the assigning Lender (other than a Defaulting Lender) under Section 3.05 as a consequence of such assignment shall have been paid by the Borrower to the assigning Lender and (C) upon such payment and, if so requested by the assignee Lender, the assignor Lender shall deliver to the assignee Lender the appropriate Note or Notes executed by the Borrower, the assignee Lender shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender.

(c) Notwithstanding anything to the contrary contained above, any Lender that acts as the L/C Issuer may not be replaced hereunder at any time that it has any Letter of Credit outstanding hereunder unless arrangements reasonably satisfactory to the L/C Issuer (including the furnishing of a back-up standby letter of credit in form and substance, and issued by an issuer, reasonably satisfactory to the L/C Issuer, or the depositing of cash collateral into a cash collateral account in amounts and pursuant to arrangements reasonably satisfactory to the L/C Issuer) have been made with respect to each such outstanding Letter of Credit and the Lender that acts as the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 9.09.

(d) Notwithstanding anything herein to the contrary, each party hereto agrees that any assignment pursuant to the terms of this Section 3.07 may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee and that the Lender making such assignment need not be a party thereto.

Section 3.08 Survival. All of the Borrower's obligations under Section 3.01, Section 3.04, Section 3.06 and Section 3.07 shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder.

ARTICLE IV

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

Section 4.01 Conditions of Initial Credit Extension. The obligation of each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent except as otherwise agreed between the Borrower and the Administrative Agent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party (except as provided in Section 4.01(a)(iv)):

(i) executed counterparts of this Agreement and the Guaranty;

(ii) each Collateral Document set forth on Schedule 1.01A required to be executed on the Closing Date as indicated on such schedule, duly executed by each Loan Party thereto, together with (except as provided in such Collateral Documents);

(A) certificates, if any, representing the pledged equity referred to therein for Wholly-Owned Subsidiaries (other than Excluded Subsidiaries) organized under the laws of the U.S. and accompanied by undated stock powers executed in blank and instruments evidencing the pledged debt referred to therein endorsed in blank;

(B) evidence that all financing statements (or equivalent) under the Uniform Commercial Code have been filed or are otherwise in a form appropriate for filing;

(iii) certificates substantially in the form of Exhibit H for each Guarantor which attach (A) resolutions or other action documentation, (B) incumbency certificates, (C) Organizational Documents and (D) good standing certificates;

(iv) an opinion from and signed by Kirkland & Ellis LLP, counsel to the Loan Parties; and

(v) a Committed Loan Notice relating to the initial Credit Extensions.

(b) The Administrative Agent and Lenders shall have received all fees and other amounts contemplated by the Loan Documents due and payable to the Administrative Agent or the Lenders on or prior to the Effective Date, including reimbursement or payment of all out-of-pocket expenses (including all reasonable fees, charges and disbursements of counsel and any financial advisor) required to be reimbursed or paid by any Loan Party and all fees and expenses required to be paid hereunder or pursuant to the Fee Letter. In the case of expenses, such expenses shall have been invoiced at least one (1) Business Day prior to the Closing Date. All such amounts may, at the Borrower's option, be offset against the proceeds of the DIP Credit Facilities.

(c) All material third party and governmental consents necessary in connection with the Transactions, the financing contemplated thereunder and all other related transactions contemplated thereby shall have been obtained.

(d) [Reserved].

(e) [Reserved].

(f) The Administrative Agent and the Lenders shall have received (i) the Budget, (ii) a forecast for the period of thirteen (13) weeks following the Effective Date, (iii) duly executed copies of all engagement letters and/or work letters for each of its and the Loan Parties' financial advisors and/or legal counsels and (iv) such additional information (financial or otherwise) reasonably requested by the Administrative Agent or the Lenders, and any item set forth in clauses (i) to (iv) of this Section 4.01(f) shall be in form and substance satisfactory to the Administrative Agent and the Lenders.

(g) The Administrative Agent and the Lenders shall have received a fully executed copy of the Restructuring Support Agreement, in form and substance satisfactory to the Administrative Agent and the Lenders, and such Restructuring Support Agreement shall be in full force and effect.

(h) No Default or Event of Default shall exist or would result from the extension of the Loans on the Effective Date.

(i) The representations and warranties set forth in Article V shall be true and correct on and as of the Effective Date.

(j) The Administrative Agent shall have received, at least three (3) Business Days prior to the Effective Date, all documentation and other information about the Loan Parties as shall have been reasonably requested by the Administrative Agent under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the USA Patriot Act.

(k) The Chapter 11 Cases shall have been commenced in the Bankruptcy Court and all of the "first day orders" and all related pleadings to be entered at the time of commencement of the Chapter 11 Cases or shortly thereafter but in no event later than three (3) Business Days after the Petition Date shall have been reviewed in advance by the Administrative Agent and the Lenders and shall be reasonably satisfactory in form and substance to the Administrative Agent and the Lenders.

(l) The Bankruptcy Court shall have entered, upon motion in form and substance satisfactory to the Administrative Agent, on such prior notice as may be reasonably satisfactory to the Administrative Agent, the Interim Order as to the Loans to be made on the Effective Date no later than five (5) Business Days after the date of commencement of the Chapter 11 Cases, approving and authorizing this Agreement and the other Loan Documents and the priorities and liens granted under Bankruptcy Code section 364(c) and (d), as applicable, in form and substance satisfactory to the Administrative Agent and its counsel.

(m) Upon entry of the Interim Order, the Administrative Agent shall, for the benefit of the Secured Parties, have valid and perfected first priority liens on the Collateral to the extent set forth in the Interim Order, subject only to liens permitted by the Loan Documents, and all filing and recording fees and taxes with respect to such liens and security interests that are then due and payable shall have been duly paid.

- (n) The Interim Order shall not have been reversed, modified, amended, stayed or vacated, in the case of any modification or amendment, in a manner, or relating to a matter, without the consent of the Administrative Agent and the Lenders.
- (o) The Loan Parties shall be in compliance in all respects with the Interim Order.
- (p) No trustee or examiner shall have been appointed with respect to the Debtors or their respective properties.
- (q) A cash management order satisfactory to the Administrative Agent and the Lenders shall be in full force and effect, and cash management arrangements satisfactory to the Administrative Agent and the Lenders shall have been implemented.
- (r) No material adverse change in the operations, assets, revenues, financial condition, profits or prospects of the Loan Parties (other than by virtue of the commencement of the Chapter 11 Cases) shall have occurred since the date of entry into the Restructuring Support Agreement.
- (s) All corporate and judicial proceedings and all instruments and agreements in connection with the Transactions among the Loan Parties and the Lenders contemplated by the Loan Documents shall be satisfactory in form and substance to the Administrative Agent and the Lenders, and the Lenders shall have received all information and copies of all documents or papers reasonably requested by any of them.

Section 4.02 Conditions of Credit Extensions on Final Order Entry Date and Thereafter. The obligations of the Lenders to make the Loans set forth on Schedule 2.01 as to be made on and as of the Final Order Entry Date, or on any Funding Date thereafter, hereunder shall not become effective until the date on which each of the following conditions shall be satisfied (or waived in accordance with Section 9.02):

- (a) The representations and warranties of each Loan Party set forth in the Loan Documents shall be true and correct in all material respects on and as of the date of such Borrowing; provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided further 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.
- (b) At the time of and immediately after giving effect to such Borrowing, no Default or Event of Default shall have occurred and be continuing.
- (c) The Administrative Agent shall have received all fees and other amounts contemplated by the Loan Documents due and then payable to the Lenders as of the Final Order Entry Date (or any subsequent Funding Date, as applicable), including reimbursement or payment of all out-of-pocket expenses (including all reasonable fees, charges and disbursements of counsel and any financial advisor) required to be reimbursed or paid by any Loan Party.
- (d) The Lenders shall have received the required periodic updates of the Budget and Variance Reports, each in form and substance satisfactory to the Administrative Agent and the Lenders, and the Loan Parties shall be in compliance with the updated Budget.

(e) Not later than 30 days following the Interim Order Entry Date, the Final Order in form and substance satisfactory to the Administrative Agent, which Final Order shall have been entered on no less than three (3) Business Days' prior written notice to the Administrative Agent, approving and authorizing on a final basis the matters and containing the provisions described in the Interim Order (the "Final Order").

(f) The Final Order shall not have been reversed, modified, amended, stayed or vacated.

(g) The Loan Parties shall be in compliance in all respects with the Final Order.

Each Borrowing (provided that a conversion or a continuation of a Borrowing shall not constitute a "Borrowing" for purposes of this Section) shall be deemed to constitute a representation and warranty by Holdings and the Borrower on the date thereof as to each of the matters specified in this Section.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Holdings and the Borrower represent and warrant for themselves and on behalf of the Subsidiaries to the Agents and the Lenders that:

Section 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each other Subsidiary (a) is a Person duly incorporated, organized or formed, and validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority to (i) own or lease its assets and carry on its business and (ii) in the case of each Loan Party, execute, deliver and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, (d) is in compliance with all Laws, orders, writs, injunctions and orders and (e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted; except in each case referred to in clause (b)(i), (c), (d) or (e), to the extent that failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.02 Authorization; No Contravention. The Transactions to be entered into by each Loan Party have been duly authorized by all necessary corporate or other action and, if required, action by the holders of such Loan Party's Equity Interests. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party, are within such Loan Party's corporate or other powers, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) conflict with or contravene the terms of any of such Person's Organization Documents, (b) result in any breach or contravention of, or the creation of any Lien under (other than under the Loan Documents), or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law; except with respect to any conflict, breach or contravention or payment or violation (but not creation of Liens) referred to in clauses (b) or (c), to the extent that such conflict, breach, contravention or payment or violation could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.03 Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other

Person is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, or (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents or the perfection of the Liens created under the Collateral Documents, except for (i) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties, and (ii) the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect.

Section 5.04 Binding Effect. Each Loan Party has duly executed and delivered each Loan Document to which it is a party and each such Loan Document constitutes, and each other Loan Document to which any Loan Party is to be a party, when executed and delivered by such Loan Party and upon entry of the Interim Order or the Final Order, will constitute, a legal, valid and binding obligation of such Loan 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 by general principles of equity (whether considered in a proceeding in equity or law).

Section 5.05 [Financial Statements; No Material Adverse Effect].

(a) The Audited Financial Statements and Unaudited Financial Statements fairly present in all material respects the financial condition of Holdings and the Borrower as of the dates thereof and its results of operations for the periods covered thereby in accordance with GAAP consistently applied throughout the periods covered thereby, except (i) to the extent provided in the notes thereto subject, in the case of the Unaudited Financial Statements, to changes resulting from audit, normal year-end audit adjustments and to the absence of footnotes and (ii) as otherwise disclosed to the Administrative Agent prior to the Closing Date.

(b) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

Each Lender and the Administrative Agent hereby acknowledges and agrees that the Borrower and its Subsidiaries may be required to restate historical financial statements as the result of the implementation of changes in GAAP or the interpretation thereof, and that such restatements will not result in a Default under the Loan Documents (including any effect on any conditions required to be satisfied on the Closing Date) to the extent that the restatements do not reveal any material omission, misstatement or other material inaccuracy in the reported information from actual results for any relevant prior period.]³

Section 5.06 Litigation. Other than the Chapter 11 Cases, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any Subsidiary or against any of their properties or revenues that either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.07 Ownership of Property; Liens. Each Loan Party and each of its Subsidiaries has good and defensible title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all property necessary in the ordinary conduct of its business, free and clear of all

³ NTD: Company still evaluating this provision.

Liens except for minor defects in title that do not materially interfere with its ability to conduct its business or to utilize such assets for their intended purposes and Liens permitted under the Loan Documents and except where the failure to have such title or other interest could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.08 Environmental Compliance.

(a) There are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened in writing against the Borrower or any Subsidiary alleging violation of, or liability under, any applicable Environmental Law that would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, there has been no Release of Hazardous Materials by the Borrower or any Subsidiary at, on, under or from any location in a manner which would reasonably be expected to give rise to liability under applicable Environmental Laws.

(c) Except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, the Borrower and its Subsidiaries are in compliance with all applicable Environmental Laws.

(d) Except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, to Borrower's knowledge, no conditions or facts exist that would reasonably be expected result in liability under, or impose an obligation with respect to, Environmental Law.

Section 5.09 Taxes. The Loan Parties and each Subsidiary have timely filed all federal, state, local, and foreign income and other material tax returns and reports required to be filed, and have timely paid all material Taxes levied or imposed upon them or their properties, income or assets otherwise due and payable, except, in each case, for any failures (a) which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP, or (b) to the extent excused or prohibited by the Bankruptcy Code or the Bankruptcy Court. Other than the ongoing audit of the Loan Parties' 2013 consolidated U.S. federal income tax return, there are no material Tax audits, deficiencies, assessments or other claims with respect to the Loan Parties or any Subsidiary.

Section 5.10 Compliance with ERISA and other Pension Laws; Labor Matters.

(a) Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) each Pension Plan is in compliance in with the applicable provisions of ERISA, the Code and other federal or state Laws, and (ii) each Foreign Plan established, sponsored or maintained by any Loan Party has been registered, established, invested, administered and maintained in compliance with all applicable Laws.

(b) (i) No ERISA Event with respect to a Pension Plan or Multiemployer Plan, has occurred; (ii) neither any Loan Party nor any ERISA Affiliate has incurred, any liability (an event has occurred which, with the giving of notice under Section 4219 of ERISA would result in such liability) under Section 4201 et seq. or 4243 of ERISA with respect to a Multiemployer Plan; (iii) neither any Loan Party nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA, except, with respect to each of the foregoing clauses of this Section 5.10(b), as would not reasonably be expected, individually or in the

aggregate, to result in a Material Adverse Effect; provided that with respect to Multiemployer Plans, the representations and warranties in this Section 5.10, other than with respect to liability under Sections 4201 and 4204 of ERISA, are made to the knowledge of the Loan Parties and (iv) no Foreign Pension Event has occurred or is reasonably expected to occur that as would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(c) Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) there are no strikes or other labor disputes against the Borrower or any of its Subsidiaries pending or, to the knowledge of the Borrower, threatened, (ii) hours worked by and payment made to employees of the Borrower or any of its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Laws, (iii) the Borrower and the other Loan Parties have complied with all applicable labor laws including work authorization and immigration and (iv) all payments due from the Borrower or any of its Subsidiaries on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant party.

Section 5.11 Subsidiaries; Equity Interests. As of the Closing Date and after giving effect to the Transactions occurring on the Closing Date, neither the Borrower nor any other Loan Party has any Subsidiaries other than those specifically disclosed in Schedule 5.11, and all of the outstanding Equity Interests in the Borrower and its Subsidiaries have been validly issued, and to the extent such concepts exist with respect to such Equity Interests, are fully paid and nonassessable and all Equity Interests owned by Holdings or any other Loan Party are owned free and clear of all Liens except (i) those created under the Collateral Documents and (ii) any Lien that is permitted by Section 7.01.

As of the Closing Date and after giving effect to the Transactions occurring on the Closing Date, Schedule 5.11 sets forth (a) the name and jurisdiction of organization of each Subsidiary, (b) sets forth the ownership interest of Holdings, the Borrower and any of their Subsidiaries in each of their Subsidiaries, including the percentage of such ownership and (c) identifies each Person the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral and Guarantee Requirement.

Section 5.12 Margin Regulations; Investment Company Act.

(a) As of the Closing Date, none of the Collateral is comprised of any margin stock. No Loan Party is engaged, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Federal Reserve Board), or extending credit for the purpose of purchasing or carrying margin stock, and no proceeds of any Borrowings will be used for any purpose that violates Regulation U or Regulation X of FRB.

(b) None of the Loan Parties is an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

Section 5.13 Disclosure.

(a) None of the written factual information or written factual 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 in writing to any Agent or any Lender on or before the Closing Date 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 5.13(a), such factual 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 general industry nature.

(b) The projections contained in the information and data referred to in Section 5.13(a) were prepared in good faith based upon assumptions believed by Holdings and the Borrower to be reasonable at the time made; it being recognized by the Agents and the Lenders that such projections are as to future events and are not to be viewed as facts, the projections are subject to significant uncertainties and contingencies, many of which are beyond the control of Holdings, the Borrower and the Subsidiaries, that no assurance can be given that any particular projections will be realized and that actual results during the period or periods covered by any such projections may differ from the projected results and such differences may be material.

Section 5.14 Intellectual Property; Licenses, Etc. Each of the Loan Parties and the other Subsidiaries own, license or possess the right to use, all of the trademarks, service marks, trade names, domain names, copyrights, patents, patent rights, technology, software, know-how, database rights, design rights and other intellectual property rights (collectively, "IP Rights") that are reasonably necessary for the operation of their respective businesses as currently conducted, and, to the knowledge of the Borrower, without violation of the rights of any Person, except to the extent such violations, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Borrower, no such IP Rights infringe upon any rights held by any Person except for such infringements, individually or in the aggregate, which could not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any such IP Rights is pending or, to the knowledge of the Borrower, threatened in writing against any Loan Party or Subsidiary, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.15 [Reserved]

Section 5.16 Collateral Documents. The Collateral Documents, subject to the entry of the Interim Order and the Final Order (as applicable), are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties legal, valid and enforceable Liens on, and security interests in, the Collateral and, (i) when all appropriate filings or recordings are made in the appropriate offices as may be required under applicable Laws (which filings or recordings shall be made to the extent required by any Collateral Document) and (ii) upon the taking of possession or control by the Collateral Agent of such Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Collateral Agent to the extent required by any Collateral Document), such Collateral Document will constitute fully perfected Liens on, and security interests in, all right, title and interest of the Loan Parties in such Collateral, in each case subject to no Liens other than the applicable Liens permitted under the Loan Documents.

Section 5.17 Use of Proceeds.

(a) The Borrower will use the proceeds of the Loans solely (A) in accordance with the Budget to (i) pay the Transaction Expenses, (ii) pay fees, interest and expenses associated with the DIP Credit Facility, (iii) provide for the ongoing working capital and capital expenditure needs of the Borrower during the pendency of the Chapter 11 Cases, (iv) cash collateralize the letters of credit issued pursuant to the L/C Facility, and (v) fund the Carve-Out, in each case,

subject to the Budget; and (B) to pay any fees and expenses contemplated in the Interim Order and any Final Order, including, without limitation, all reasonable, documented, out of pocket fees of the attorneys, consultants and other professionals of the (i) ad hoc group of certain unaffiliated holders of any claims arising under the Existing First Lien Credit Agreement or the other Loan Documents (as defined in the Existing First Lien Credit Agreement), represented by Jones Day LLP, (ii) Existing First Lien Administrative Agent, (iii) ad hoc group of certain unaffiliated holders of any claims arising under the Second Lien Credit Agreement or the other Loan Documents (as defined in the Second Lien Credit Agreement), represented by Akin Gump Strauss Hauer & Feld LLP and (iv) Second Lien Administrative Agent.

(b) No proceeds of the Loans, any Collateral or any cash of any Loan Party may be used for any fees or expenses incurred in connection with the investigation, initiation or prosecution of any claims, causes of action, adversary proceedings or other litigation against (i) the Administrative Agent, the Lenders, the Existing First Lien Agent or any Existing First Lien Lenders or (ii) in connection with challenging, invalidating, disallowing, recharacterizing, setting aside, avoiding, subordinating, in whole or in part, or taking or attempting to take any other action to render unenforceable, the liens, claims, interests and adequate protection of the Administrative Agent and the Lenders or the Existing First Lien Agent and Existing First Lien Lenders; provided that up to \$50,000 may be used by any statutory committee of unsecured creditors appointed in the Chapter 11 Cases for purposes of investigating (but not challenging) liens, claims, interests and adequate protection of the Existing First Lien Agent and Existing First Lien Lenders.

Section 5.18 [Reserved].

Section 5.19 Patriot Act.

(a) Neither the Borrower nor any other Loan Party is in material violation of any material laws relating to terrorism or money laundering, including Executive Order No. 13224 on Terrorist Financing, effective September 23, 2001 and the USA PATRIOT Act.

(b) The use of proceeds of the Loans and the Letters of Credit will not violate in any material respect the Trading with the Enemy Act, as amended or any of the foreign asset control regulations of the United States Treasury Department (31 C.F.R. Subtitle B, Chapter V).

Section 5.20 FCPA. None of the Borrower or any other Loan Party will use the proceeds of the Loans or the Letters of Credit or otherwise make available such proceeds to any Person for the purposes of 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.

Section 5.21 Sanctioned Persons.

(a) None of Holdings, the Borrower or any Subsidiary is currently the target of any U.S. sanctions administered by OFAC.

(b) None of the Borrower or any other Loan Party will use the proceeds of the Loans or the Letters of Credit or otherwise make available such proceeds to any Person for use in any manner that will result in a material violation by any Lender of any U.S. sanctions administered by OFAC or the U.S. Department of State.

Section 5.22 Reorganization Matters.

(a) The Chapter 11 Cases were commenced on the Petition Date and proper notice has been given of (x) the motion seeking approval of the Loan Documents and the Interim Order and Final Order, (y) the hearing for the approval of the Interim Order, and (z) promptly after the scheduling thereof, the hearing for the approval of the Final Order.

(b) After the entry of the Interim Order, and pursuant to and to the extent permitted in the Interim Order and the Final Order, the Obligations will constitute allowed administrative expense claims in the Chapter 11 Cases having priority over all administrative expense claims and unsecured claims against the Loan Parties now existing or hereafter arising, of any kind whatsoever, including, without limitation, all administrative expense claims of the kind specified in Sections 105, 326, 328, 330, 331, 503(a), 503(b), 507(a), 507(b), 546, 726, 1113, 1114, as provided under Section 364(c)(1) of the Bankruptcy Code, subject, as to priority only to the Carve-Out, in the priorities set forth in the Interim Order and the Final Order.

(c) The Interim Order (with respect to the period prior to entry of the Final Order) or the Final Order (with respect to the period on and after entry of the Final Order), as the case may be, is in full force and effect and has not been reversed, stayed, modified or amended.

ARTICLE VI

AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder which is accrued and payable shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Borrower shall, and shall (except in the case of the covenants set forth in Section 6.01, Section 6.02 and Section 6.03) cause each Subsidiary to:

Section 6.01 Financial Statements. Deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) as soon as available, but in any event within one hundred fifty (150) days after the end of each fiscal year of the Borrower, an audited consolidated balance sheet of the Borrower and its consolidated Subsidiaries and, if different, an audited consolidated balance sheet of the Borrower and its Subsidiaries, in each case as at the end of such fiscal year, and the related audited consolidated statements of income or operations, shareholders' equity and cash flows for such fiscal year (or, in lieu of such audited financial statements of the Borrower and its Subsidiaries, a detailed reconciliation, reflecting such financial information for the Borrower and its Subsidiaries, on the one hand, and the Borrower and its consolidated Subsidiaries, on the other hand), setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, and except with respect to any such reconciliation, audited and accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards; and

(b) as soon as available, but in any event, within forty five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its consolidated Subsidiaries and, if different, a consolidated balance sheet of the Borrower and its Subsidiaries, in each case as at the end of such fiscal quarter, and the related (i) consolidated statements of income or operations for such fiscal quarter and for the portion of the fiscal year then ended and (ii) consolidated statements of cash flows for

the portion of the fiscal year then ended (or in lieu of such financial statements of the Borrower and its Subsidiaries, a detailed reconciliation, reflecting such financial information for the Borrower and its Subsidiaries, on the one hand, and the Borrower and its consolidated Subsidiaries on the other hand), setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its consolidated Subsidiaries (or, in the case of any reconciliation, the Borrower and its Subsidiaries) in accordance with GAAP, subject to changes resulting from audit and normal year-end audit adjustments and to the absence of footnotes; and

(c) on or before the date that is 30 days after the last calendar day of each month beginning with the first month after the Closing Date, monthly financial statements including an unaudited consolidated balance sheet and unaudited consolidated statements of operations and comprehensive income, stockholders' equity and cash flows as of the end of and for such preceding monthly period and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by a financial officer as presenting fairly in all material respects the financial condition as of the end of and for such monthly period and such portion of the fiscal year and results of operations and cash flows of the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, year-end adjustments (which may be material, include restatements and take into account the status of the reporting systems of Holdings and its Subsidiaries), implementation of SOP 90-7 and the absence of footnotes.

Section 6.02 Certificates; Other Information. Deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) no later than five (5) days after the delivery of the financial statements referred to in Section 6.01(a), (b) and (c) a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower;

(b) promptly after the same are publicly available, copies of all annual, regular, periodic and special reports and registration statements which the Borrower files with the SEC or with any Governmental Authority that may be substituted therefor (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8) and in any case not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(c) together with the delivery of the financial statements pursuant to Section 6.01(a) and each Compliance Certificate pursuant to Section 6.02(a), (i) a report setting forth the information required by Section 3.03 of the Security Agreement (or confirming that there has been no change in such information since the Closing Date or the date of the last Compliance Certificate), and (ii) such other information required by the Compliance Certificate;

(d) [Reserved];

(e) [Reserved];

(f) not later than any date on which financial statements are delivered with respect to any period in which pro forma adjustments pursuant to Section 1.10 are made, a certificate of a Responsible Officer of the Borrower setting forth the amount of such pro forma adjustments and, in reasonable detail, the calculations and basis therefor;

(g) commencing on March [3], 2017⁴ and not later than three (3) Business Days after the end of each four week period thereafter, a rolling budget (upon approval of the Administrative Agent, the “Budget” (the initial form of which is attached as Exhibit [B] to the Interim Order)) for the period commencing on the first day of each such four week period. The rolling 13-week Budget shall set forth on a line-item basis the Loan Parties’ anticipated Cash Receipts and Cash Disbursements on a weekly basis which the Loan Parties expect to incur during each week of the Budget;

(h) [Reserved];

(i) not later than Wednesday of each week, (i) weekly line-by-line Variance Reports, in form and substance acceptable to the Administrative Agent, for the preceding weekly period and on a cumulative basis for the first reporting week of each new Budget to the Report Date (with a reconciliation of the aggregate variance for the period from the Petition Date to the Report Date), comparing actual Cash Receipts and Cash Disbursements to amounts projected in the Budget and showing on a line-by-line basis any variance to the corresponding line item of the Budget together with an explanation for such variance, in form and substance satisfactory to the Administrative Agent and the Lenders, and (ii) weekly reports (the “Weekly KPI Reports”) setting forth key performance indicators (the “KPIs”) that provide detail on the weekly operating trends for Multiply, including KPIs driving gross profit for Multiply and, as reasonably available, by material product, revenue, traffic acquisition cost, gross profit, visits, RPMv and CPMv, provided that such KPIs shall be reported consistent with past practices;

(j) not later than the seventh Business Day following the end of each calendar month, (i) monthly KPIs (the “Monthly KPI Reports”) that provide detail on the monthly operating trends for the preceding calendar month for ForeSee and Webcollage and Multiply and, as reasonably available, (x) new, upsell and renewal bookings and (y) ACV churn rate, account churn rate, annual recurring revenue and net new customers, provided that such KPIs shall be reported consistent with past practices, and (ii) a reasonably detailed calculation of the Multiply Margin Ratio for the preceding calendar month;

(k) no less than three (3) days prior to filing drafts of all pleadings, motions, applications, judicial information, financial information and any other documents (including the Interim Order and the Final Order, each of which must be in form and substance satisfactory to the Administrative Agent and the Lenders) filed by or on behalf of the Borrower or the Guarantors with the Bankruptcy Court or delivered to the U.S. Trustee in the Chapter 11 Cases, or distributed by or on behalf of the Borrower or any Guarantor to any official committee in the Chapter 11 Cases (except in the case of any such documents filed on an expedited basis in connection with an emergency proceeding, which shall be delivered as soon as practicable and in any event prior to the filing thereof); and

(l) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of Holdings, the Borrower or any of its

⁴ Start date should be based on filing date.

Subsidiaries, or compliance with the terms of any Loan Document, as the Administrative Agent on its own behalf or on behalf of any Lender may reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) and (b) and Section 6.02(b) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which such documents are posted on the Borrower's behalf on any third-party website designated by the Administrative Agent; provided that: (i) 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 (ii) 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.

Section 6.03 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent in writing:

(a) of the occurrence of any Default or 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;

(b) any litigation or governmental proceeding (including, without limitation, pursuant to any applicable Environmental Laws) pending against the Borrower or any of the Subsidiaries that could reasonably be expected to be determined adversely and, if so determined, to result in a Material Adverse Effect;

(c) of the occurrence of any ERISA Event with respect to a Pension Plan or a Foreign Pension Event with respect to a Foreign Plan, in each case, that would reasonably be expected to have a Material Adverse Effect;

(d) of any matter that has resulted or could reasonably be expected to result in a Material Adverse Effect; and

(e) of any material change in accounting policies or financial reporting practices by any Loan Party.

Each notice delivered under this Section 6.03 shall be accompanied by a written statement of a Responsible Officer of Holdings or the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

Section 6.04 Maintenance of Existence. (a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization and (b) take all reasonable action to maintain all rights, privileges (including its good standing), permits, licenses and franchises necessary or desirable in the normal conduct of its business, except in the case of clauses (a) and (b), (i) to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect (other than with respect to the Borrower in clause (a)) or (ii) pursuant to a transaction permitted by Section 7.04 or Section 7.05.

Section 6.05 Maintenance of Properties. Except if the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (a) maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and casualty or condemnation excepted, and (b) make all necessary renewals, replacements, modifications, improvements, upgrades, extensions and additions thereof or thereto in accordance with prudent industry practice.

Section 6.06 Maintenance of Insurance. Maintain with financially sound and reputable insurance companies (in the good faith determination of the Borrower), insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Borrower and its Subsidiaries) as are customarily carried under similar circumstances by such other Persons (in the good faith determination of the Borrower). If any portion of any mortgaged property is at any time 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 National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then, to the extent required by applicable Laws, the Borrower shall, or shall cause each Loan Party to, (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount reasonably satisfactory to the Administrative Agent and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Administrative Agent evidence of such compliance in form and substance reasonably acceptable to the Administrative Agent.

Section 6.07 Compliance with Laws. Comply in all respects with the requirements of all Laws and all orders, writs, injunctions, decrees and judgments applicable to it or to its business or property (including without limitation Environmental Laws, ERISA, FCPA, OFAC and the USA PATRIOT Act), except if the failure to comply therewith would not, individually or in the aggregate reasonably be expected to have a Material Adverse Effect.

Section 6.08 Books and Records. 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 the Borrower or such Subsidiary, as the case may be.

Section 6.09 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent and each Lender to, at the Borrower's expense (subject to the limitations below) visit and inspect any of its properties 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. 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 this Section 6.09, none of the Borrower or any Subsidiary will be required to disclose or permit the inspection 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 Law or any binding agreement or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product.

Section 6.10 Covenant to Guarantee Obligations and Give Security. At the Borrower's expense, take all action necessary or reasonably requested by the Administrative Agent to ensure that the

Collateral and Guarantee Requirement (subject to the limitations set forth therein and in the Collateral Documents) continues to be satisfied, including, upon the formation or acquisition of any new direct or indirect Subsidiary by any Loan Party or any Subsidiary ceasing to be an Excluded Subsidiary:

(a) within five (5) days after such formation, acquisition, designation or occurrence or such longer period as the Administrative Agent may agree in its reasonable discretion:

(i) cause each such Subsidiary that is required to become a Guarantor under the Collateral and Guarantee Requirement to furnish to the Administrative Agent a description of the Material Real Properties owned by such Subsidiary in detail reasonably satisfactory to the Administrative Agent;

(ii) cause each such Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to duly execute and deliver to the Administrative Agent or the Collateral Agent (as appropriate) mortgages, pledges, assignments, the applicable Security Agreement Supplements, applicable Intellectual Property Security Agreement Supplements and other security agreements and documents or joinders or supplements thereto (including without limitation, with respect to mortgages and the DIP L/C Guaranty), as reasonably requested by and in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent (consistent with the applicable Security Agreement and other Collateral Documents in effect on the Closing Date), in each case granting Liens required by the Collateral and Guarantee Requirement;

(iii) cause each such Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to deliver any and all certificates representing Equity Interests (only to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank (or any other documents customary under local Law) and instruments evidencing the Indebtedness held by such Subsidiary and required to be pledged pursuant to the Collateral and Guarantee Requirement (including the execution of the Subordinated Intercompany Note), indorsed in blank to the Collateral Agent;

(iv) take and cause such Subsidiary and each direct or indirect parent of such Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to take whatever action (including the recording of mortgages, the filing of financing statements and delivery of share and membership interest certificates, if any) may be necessary in the reasonable opinion of the Collateral Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid and perfected Liens required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms; and

(v) deliver to the Collateral Agent with respect to each Material Real Property, upon the Administrative Agent's reasonable request, existing surveys, existing title reports, existing title insurance policies and existing environmental assessments.

If any Lender determines, acting reasonably, that any applicable Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender to hold or benefit from a Lien over real property pursuant to any Law of the United States or any State thereof, such Lender may notify the Administrative Agent and disclaim any benefit of such security interest to the

extent of such illegality; provided, that such determination or disclaimer shall not invalidate or render unenforceable such Lien for the benefit of any other Lender or Secured Party.

Section 6.11 Use of Proceeds. The Borrower will, and will cause each Loan Party to, use the proceeds of the Loans in accordance with Section 5.17.

Section 6.12 Further Assurances. Subject to the limitations set forth in the definition of Collateral and Guarantee Requirement and in the Collateral Documents, promptly upon reasonable request by the Administrative Agent or the Collateral Agent (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral, and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or the Collateral Agent may reasonably request from time to time in order to carry out more effectively the purposes of this Agreement and the Collateral Documents.

Section 6.13 [Reserved].

Section 6.14 Payment of Taxes. The Loan Parties will file, and will cause each of the Subsidiaries to file, all federal, state, local, foreign and other material income tax returns and reports required to be filed and will pay and discharge, and will cause each of the Subsidiaries to pay and discharge, all material Taxes, in each case on a timely basis, and the Loan Parties will pay and discharge, and will cause each of the Subsidiaries to pay and discharge, all lawful Tax claims, which if unpaid, may reasonably be expected to become a lien or charge upon any properties of the Loan Parties or any of the Subsidiaries not otherwise permitted under this Agreement.

Section 6.15 Nature of Business. The Borrower and its 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 Subsidiaries, taken as a whole, on the Closing Date and other business activities incidental, related or ancillary to any of the foregoing.

Section 6.16 End of Fiscal Years; Fiscal Quarters. The Borrower will not change its fiscal year from ending on December 31.

Section 6.17 [Reserved].

Section 6.18 Case Milestones. The Loan Parties shall comply with the following milestones with respect to the Chapter 11 Cases:

(a) On the Petition Date, the Debtors shall file, in form and substance acceptable to the Secured Parties, (i) a motion seeking approval of the DIP Credit Facility; (ii) a disclosure statement (the "Disclosure Statement") pursuant to section 1125 of the Bankruptcy Code and a motion seeking approval thereof, and (iii) a chapter 11 plan for all Debtors (the "Chapter 11 Plan") (excluding any plan supplement or other disclosure statement exhibits and chapter 11 plan exhibits);

(b) The Bankruptcy Court shall have entered an order approving the Interim Order, which shall be in form and substance acceptable to the Secured Parties, approving the DIP Credit Facility on an interim basis no later than five (5) days following the Petition Date;

(c) The Bankruptcy Court shall enter the Final Order, which order shall be in form and substance acceptable to the Secured Parties, approving the DIP Credit Facility on a final basis no later than thirty-five (35) days following the Petition Date.

(d) The Bankruptcy Court shall have entered a combined order approving the Disclosure Statement and confirming the Chapter 11 Plan (the "Confirmation Order") no later than 35 days after the Petition Date;

(e) The effective date of the Chapter 11 Plan shall have occurred no later than 45 days after the Petition Date;

provided, that each of the foregoing deadlines may be extended in accordance with the terms of the Restructuring Support Agreement.

Section 6.19 Certain Post-Closing Obligations. As promptly as practicable, and in any event within the time periods after the Effective Date specified in Schedule 6.19 or such later date as the Administrative Agent agrees to in writing, including to reasonably accommodate circumstances unforeseen on the Effective Date, Holdings, the Borrower and each other Loan Party shall deliver the documents or take the actions specified on Schedule 6.19.

Section 6.20 Cash Management. Subject to the orders of the Bankruptcy Court with respect to the Debtors' cash management, the Borrower and the Guarantors shall maintain their operating accounts with deposit banks reasonably acceptable to the Administrative Agent and, subject to Section 6.19, maintain at all times account control agreements in form and substance satisfactory to the Administrative Agent over such accounts. The Borrower shall also maintain a cash collateral account with Silicon Valley Bank, which account shall be subject to an account control agreement with the Administrative Agent. No Loan Party shall open, maintain or permit to exist any bank account, unless such Loan Party shall have provided the Administrative Agent with five (5) Business Days' prior written notice thereof and, unless otherwise consented to in writing by the Administrative Agent, shall have provided an account control agreement in form and substance satisfactory to the Administrative Agent over each such account.

ARTICLE VII

NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder which is accrued and payable shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Borrower shall not, nor shall it permit any of its Subsidiaries to, directly or indirectly (and, in the case of Section 7.10, Holdings shall not):

Section 7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

(a) Liens created pursuant to the Loan Documents, the Interim Order and the Final Order to secure the Obligations;

(b) Valid and perfected Liens existing on the Closing Date and set forth on Schedule 7.01(b); provided that (i) any such Lien does not extend to any other property or asset of the Borrower or any Subsidiary other than (A) after acquired property that is affixed or incorporated into the property covered by any such Lien or and (B) the proceeds and products thereof and (ii) such Lien shall secure only those obligations that it secures on the Closing Date; and provided

that in no event shall the total amount of Permitted Senior Liens exceed \$2,000,000 in the aggregate;

(c) (i) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation and (ii) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrower or any Subsidiary;

(d) Liens incurred or deposits made to secure the performance of bids, trade contracts, governmental contracts and leases (other than Indebtedness for borrowed money and Capitalized Leases), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business;

(e) easements, rights-of-way, restrictions (including zoning restrictions), encroachments, protrusions and other similar encumbrances and minor title defects affecting real property which, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of the Borrower and its Subsidiaries, taken as a whole, and any exception on the title polices issued in connection with any mortgaged property;

(f) leases, licenses, subleases, ground leases, sublicenses or cross licenses and Liens on the property covered thereby (including Intellectual Property), in each case, 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 Subsidiaries, taken as a whole, or (ii) secure any Indebtedness;

(g) 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 in the ordinary course of business;

(h) Liens (i) of a collection bank (including those arising under Section 4-210 of the Uniform Commercial Code) on the items in the course of collection, (ii) in favor of a banking or other financial institution arising as a matter of law encumbering deposits or other funds maintained with a financial institution (including the right of set off) and which are within the general parameters customary in the banking industry and (iii) attaching to commodity trading accounts, or other commodity brokerage accounts incurred in the ordinary course of business;

(i) Liens consisting of an agreement to Dispose of any property in a Disposition permitted under Section 7.05, in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(j) any interest or title of a lessor, licensor, sublessor or sublicensor under leases or subleases entered into by the Borrower or any of its Subsidiaries in the ordinary course of business;

(k) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks or other financial institutions not given in connection with the incurrence of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Borrower or any Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower or its Subsidiaries or (iii) relating to purchase orders and other

agreements entered into with customers of the Borrower or any Subsidiary in the ordinary course of business;

(l) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(m) 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 conduct of the business of the Borrower or any Subsidiary;

(n) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(o) 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 Borrower or any Subsidiary; provided that such Liens do not materially interfere with the ordinary conduct of the business of the Borrower or any Subsidiary; and

(p) Liens securing obligations under the DIP L/C Facility;

(q) Liens created pursuant to the Second Lien Credit Agreement and the other Loan Documents as defined in the Second Lien Credit Agreement;

(r) Adequate protection Liens granted to (i) the Administrative Agent and Lenders under the Existing First Lien Credit Agreement and (ii) the Second Lien Administrative Agent and the lenders under the Second Lien Credit Agreement pursuant to the Interim Order and any Final Order;

(s) the right reserved to or vested in any Governmental Authority by any statutory provision or by the terms of any lease, license, franchise, grant or permit of the Borrower or any Subsidiary, to terminate any such lease, license, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof.

Section 7.02 Investments. Make any Investments, except:

(a) asset purchases (including purchases of inventory, supplies and materials), the lease or sublease of any asset, or licensing or contribution of Intellectual Property pursuant to joint marketing arrangements with other Persons, in each case in the ordinary course of business and included in the Budget;

(b) Investments (i) by any Loan Party in any other Loan Party and (ii) by any Subsidiary in any Loan Party;

(c) 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;

(d) (i) Investments existing on the Closing Date and (ii) Investments consisting of any ordinary course modification, replacement, renewal, reinvestment or extension of any

Investment existing on the Closing Date; provided that the aggregate amount of the Investments permitted pursuant to this Section 7.02(e) is not increased from the aggregate amount of such Investments on the Petition Date except pursuant to the terms of such Investment as of the Petition Date or as otherwise permitted by this Section 7.02;

(e) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers consistent with past practices;

(f) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers or in settlement of delinquent obligations of, or other disputes with, customers and 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;

(g) advances of payroll payments to employees, directors, consultants, independent contractors or other service providers or other advances of salaries or compensation to employees, directors, consultants, independent contractors or other service providers, in each case in the ordinary course of business;

(h) Guarantee Obligations of the Borrower or any Subsidiary in respect 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;

(i) Guarantee Obligations of the Borrower or any Subsidiary in connection with the provision of credit card payment processing services;

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

Section 7.03 Indebtedness. Incur any Indebtedness, except:

(a) Indebtedness of the Borrower and any of its Subsidiaries under the Loan Documents;

(b) Indebtedness outstanding on the date hereof and listed on Schedule 7.03(b); provided that all such Indebtedness constituting intercompany Indebtedness shall be subordinated to the Obligations (but only to the extent permitted by applicable law and not giving rise to adverse tax consequences) on terms (i) at least as favorable to the Lenders as those set forth in the form of subordinated intercompany note attached as Exhibit J or (ii) otherwise satisfactory to the Administrative Agent;

(c) Guarantee Obligations of the Borrower and its Subsidiaries in respect of Indebtedness of the Borrower or any Subsidiary otherwise permitted hereunder; provided that (i) if the Indebtedness being guaranteed is subordinated in right of payment to the Obligations, such Guarantee Obligation shall be subordinated in right of payment to the Guarantee of the Obligations on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness and (ii) no Guarantee by any Subsidiary of any Indebtedness of a Loan Party shall be permitted unless such Subsidiary shall have also provided a Guarantee of the Obligations;

(d) Indebtedness of the Borrower or any Subsidiary owing to the Borrower or any other Subsidiary to the extent constituting an Investment permitted by Section 7.02;

(e) (i) Capitalized Lease Obligations and other Indebtedness (including Capitalized Leases) financing the acquisition, construction, repair, replacement, lease or improvement of fixed or capital assets; provided that (x) such Indebtedness is Incurred concurrently with or within ninety (90) days after the applicable acquisition, construction, repair, replacement, lease or improvement, and (y) such Indebtedness is not Incurred to acquire the Equity Interests of any person, and (ii) Capitalized Lease Obligations arising out of Sale Leasebacks, provided that, at the time of any such incurrence and after giving pro forma effect thereto and the use of the proceeds thereof, the aggregate principal amount of Indebtedness that is outstanding in reliance on this clause (e) shall not exceed \$[500,000];⁵

(f) (i) Indebtedness representing deferred compensation to employees, directors, consultants, contract providers, independent contractors or other service providers of Holdings, the Borrower and the Subsidiaries Incurred in the ordinary course of business; and (ii) Indebtedness consisting of obligations of Holdings (or any Parent Entity thereof), the Borrower or the Subsidiaries under deferred compensation arrangements to their employees, directors, consultants, independent contractors or other service providers created, entered into or undertaken in the ordinary course of business;

(g) Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections and similar arrangements in each case in connection with deposit accounts incurred in the ordinary course;

(h) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take or pay obligations entered into in the ordinary course of business;

(i) additional Indebtedness in an aggregate principal amount, measured at the time of Incurrence and after giving pro forma effect thereto and the use of the proceeds thereof, not to exceed \$500,000;

(j) Guarantee Obligations Incurred in the ordinary course of business in respect of obligations to suppliers, customers, franchisees, lessors, licensees, sublicensees or distribution partners;

(k) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (k) above;

(l) Indebtedness incurred under the DIP L/C Facility; and

(m) unsecured Indebtedness in respect of obligations of the Borrower or any 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, consistent with past practices, and not in connection with the borrowing of money.

⁵ NTD - Amount acceptable for this agreement, but will need to be larger in exit facility.

The Borrower will not, and will not permit any Subsidiary or Loan Party to, issue any preferred Equity Interests or any Disqualified Equity Interests.

Section 7.04 Fundamental Changes. Merge, dissolve, liquidate, consolidate, amalgamate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired), taken as a whole, to or in favor of any Person.

Section 7.05 Dispositions. Make any Disposition, except:

(a) Dispositions of obsolete, worn out or surplus property, whether now owned or hereafter acquired, in the ordinary course of business and Dispositions of property no longer used or useful, or economically practicable to maintain, in the conduct of the business of the Borrower and its Subsidiaries, subject to the consent of the Required Lenders (which consent shall not be unreasonably withheld);

(b) Dispositions of inventory and other assets in the ordinary course of business (including allowing any registrations or any applications for registration of any immaterial IP Rights to lapse or go abandoned in the ordinary course of business);

(c) Dispositions of property to the Borrower or a Subsidiary; provided that if the transferor of such property is a Loan Party, the transferee must be a Loan Party;

(d) Dispositions permitted by Section 7.06 and Liens permitted by Section 7.01;

(e) leases, subleases, licenses or sublicenses, in each case in the ordinary course of business and which do not materially interfere with the business of the Borrower and its Subsidiaries, taken as a whole;

(f) transfers of property subject to Casualty Events upon receipt of the Net Proceeds of such Casualty Event;

(g) Dispositions of accounts receivable in the ordinary course of business in connection with the collection or compromise thereof;

(h) Dispositions of Cash Equivalents for cash; and

(i) Dispositions of property to Persons other than Guarantors (including the sale or issuance of Equity Interests of a Guarantor) not otherwise permitted under this Section 7.05 in an aggregate amount not to exceed \$500,000; provided that (i) no Default shall exist at the time of, or would result from, such Disposition (other than any such Disposition made pursuant to a legally binding commitment entered into at a time when no Default existed or would have resulted from such Disposition) and (ii) with respect to any Disposition pursuant to this clause (h), the Borrower or a Guarantor shall receive not less than 75% of such consideration in the form of cash.

Section 7.06 Restricted Payments. Make, directly or indirectly, any Restricted Payment, except:

(a) each Subsidiary may make Restricted Payments to the Borrower and to other Subsidiaries that are Loan Parties and each Subsidiary that is not a Loan Party may make Restricted Payments to any Subsidiary that is not a Loan Party; and

(b) the Borrower and its Subsidiaries may make Restricted Payments to Holdings:

(i) the proceeds of which shall be used to pay any federal, state, local or foreign Taxes of a consolidated, combined or similar tax group of which Holdings is the common parent, to the extent such Taxes are attributable to the income of the Borrower or its Subsidiaries; provided that (x) no such payments shall exceed the income tax liability that would have been imposed on the Borrower and/or the applicable Subsidiaries had such entity(ies) filed on a stand-alone basis;

(ii) the proceeds of which shall be used to pay Holdings' operating costs and expenses incurred in the ordinary course of business, other overhead costs and expenses and fees (including administrative, legal, accounting and similar expenses provided by third parties as well as trustee, directors and general partner fees) which are reasonable and customary and incurred in the ordinary course of business and attributable to the ownership or operations of the Borrower and its Subsidiaries (including any reasonable and customary indemnification claims made by directors or officers of Holdings attributable to the direct or indirect ownership or operations of the Borrower and its Subsidiaries) and fees and expenses otherwise due and payable by the Borrower or any Subsidiary and permitted to be paid by the Borrower or such Subsidiary under this Agreement not to exceed \$500,000, in any fiscal year; and

(iii) to the extent not duplicative of Section 7.06(b)(i) or (ii), the proceeds of which shall be used to pay franchise and excise taxes, and other similar fees, taxes and expenses, required to maintain Holdings' existence;

provided that any Restricted Payments made pursuant to this Section 7.06 shall comply with the Budget.

In addition to the foregoing limitations on Restricted Payments, the Borrower will not, and will not permit any of its Subsidiaries to implement or adopt any employee stock option plan, deferred compensation plan, incentive plan, retention bonus plan or similar compensation arrangements that are outside the ordinary course of business without the prior written consent of the Administrative Agent and the Required Lenders.

Section 7.07 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than:

(a) transactions between or among Holdings, the Borrower or any Subsidiary that is a Loan Party;

(b) transactions on terms substantially as favorable to the Borrower or such Subsidiary as would be obtainable by the Borrower or such Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate; and

(c) Restricted Payments permitted under Section 7.06.

Section 7.08 Prepayments, Etc., of Indebtedness.

(a) Make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Pre-Petition Indebtedness, except as expressly provided for herein or pursuant to “first day” or other orders entered upon pleadings in form and substance satisfactory to the Administrative Agent and the Lenders;

(b) Assert any right of subrogation or contribution against any other Loan Party until all Obligations have been indefeasibly paid in full; and

(c) Amend, modify or change in any manner materially adverse to the interests of the Lenders any term or condition of any Pre-Petition Indebtedness without the consent of the Required Lenders.

Section 7.09 Maximum Cash at Non-Loan Parties. At any time possess, maintain, or hold at any Subsidiaries that are not Loan Parties, cash or Cash Equivalents in excess of \$1,000,000 in the aggregate for all such Subsidiaries.

Section 7.10 Holdings Covenants.

Holdings shall not conduct, transact or otherwise engage in any business or operations other than (i) the ownership and/or acquisition of the Equity Interests (other than Disqualified Equity Interests) of the Borrower, (ii) the maintenance of its legal existence, including the ability to incur fees, costs and expenses relating to such maintenance, (iii) to the extent applicable, participating in tax, accounting and other administrative matters as a member of the consolidated group of Holdings and the Borrower, (iv) the performance of its obligations under and in connection with the Loan Documents and any documents relating to other Indebtedness permitted under Section 7.03, (v) any transaction between Holdings and the Borrower or any Subsidiary permitted under this Article 7, (vi) incurring fees, costs and expenses relating to overhead and general operating including professional fees for legal, tax and accounting issues and paying Taxes, (vii) providing indemnification to officers and directors and as otherwise permitted in Section 7, (viii) activities incidental to the consummation of the Transactions, (ix) the making of any loan to any officers or directors contemplated by Section 7.02, the making of any Investment in the Borrower or any Subsidiary Guarantor or, to the extent otherwise allowed under Section 7.02, a Subsidiary, (x) activities required to comply with applicable Laws, (xi) maintenance and administration of stock option and stock ownership plans and activities incidental thereto, (xii) the obtainment of, and the payment of any fees and expenses for, management, consulting, investment banking and advisory services to the extent otherwise permitted by this Agreement, and (xiii) activities incidental to the businesses or activities described in clauses (i) to (xiii) of this Section 7.10.

Section 7.11 Negative Pledge. Enter into any agreement, instrument, deed or lease that prohibits or limits the ability of any Loan Party to create, incur, assume or suffer to exist any Lien upon any of their respective properties or revenues, whether now owned or hereafter acquired, for the benefit of the Secured Parties with respect to the Obligations or under the Loan Documents; provided that the foregoing shall not apply to:

(a) restrictions and conditions imposed by (A) Law, (B) any Loan Document, (C) the Second Lien Credit Agreement;

(b) customary restrictions and conditions existing on the Closing Date or to any extension, renewal, amendment, modification or replacement thereof, except to the extent any

such amendment, modification or replacement expands the scope of any such restriction or condition;

(c) restrictions and conditions contained in agreements relating to the sale of a Subsidiary or any assets pending such sale; provided that such restrictions and conditions apply only to the Subsidiary or assets that is or are to be sold and such sale is permitted hereunder;

(d) customary provisions in leases, licenses and other contracts restricting the assignment thereof;

(e) restrictions imposed by any agreement relating to secured Indebtedness permitted by this Agreement to the extent such restriction applies only to the property securing such Indebtedness;

(f) any restrictions or conditions set forth in any agreement in effect at any time any Person becomes a Subsidiary (but not any modification or amendment expanding the scope of any such restriction or condition); provided that such agreement was not entered into in contemplation of such Person becoming a Subsidiary and the restriction or condition set forth in such agreement does not apply to the Borrower or any other Subsidiary;

(g) [Reserved];

(h) restrictions on cash or other deposits imposed by agreements entered into in the ordinary course of business (or other restrictions constituting Liens permitted hereunder);

(i) restrictions set forth on Schedule 7.11 and any extension, renewal, amendment, modification or replacement thereof, except to the extent any such amendment, modification or replacement expands the scope of any such restriction or condition;

(j) [Reserved];

(k) negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 7.03(e), but solely to the extent any negative pledge relates to the property financed by or the subject of such Indebtedness;

(l) customary provisions restricting assignment of any agreement entered into in the ordinary course of business; and

(m) provisions restricting the granting of a security interest in intellectual property contained in licenses or sublicenses by the Borrower and its Subsidiaries of such intellectual property, which licenses and sublicenses were entered into in the ordinary course of business (in which case such restriction shall relate only to such intellectual property).

Section 7.12 Financial Covenants. Fail to comply with any of the following covenants:

(a) Minimum Cash Receipts. Commencing with the Test Date, for each Testing Period, the Borrower shall not permit the actual Cash Receipts reflected in the Variance Report for the applicable Variance Period to be less than 90% of the cumulative Cash Receipts forecasted for such Variance Period in the Budget.

(b) Maximum Cash Disbursements. Commencing with the Test Date, for each Testing Period, the Borrower shall not permit the actual Cash Disbursements reflected in the Variance Report for such Variance Period to exceed 110% (or, solely for purposes of the first Variance Period, 120%) of the cumulative Cash Disbursements forecasted for such Variance Period in the Budget.

(c) Specified Receipts. Commencing with the Test Date, for each Testing Period, the Borrower shall not permit the actual Specified Receipts reflected in the Variance Report for such Variance Period to be less than 85% of the cumulative Specified Receipts forecasted for such Variance Period in the Budget.

(d) Specified Disbursements. Commencing with the Test Date, for each Testing Period, the Borrower shall not permit the actual Specified Disbursements reflected in the Variance Report for such Variance Period to exceed 110% of the cumulative Specified Disbursements forecasted for such Variance Period in the Budget.

(e) Minimum Liquidity. The Borrower shall not permit Unrestricted Cash to be less than an average of \$2,000,000 on each Business Day of the week prior to any Liquidity Reporting Date.

(f) Minimum Multiply Margin Ratio. The Borrower shall not permit the Multiply Margin Ratio with respect to any calendar month to be less than 20%.

Section 7.13 Changes in Fiscal Periods. Make any change in fiscal year without the prior written consent of the Administrative Agent.

Section 7.14 Chapter 11 Claims. Incur, create, assume, suffer to exist or permit any other superpriority administrative claim which is pari passu with or senior to the claims of the Administrative Agent and Lenders against the Loan Parties, except as set forth in the Interim Order and Final Order, as then in effect.

Section 7.15 Critical Vendor and Other Payments. Make (i) any Pre-Petition "critical vendor" payments or other payments on account of Pre-Petition unsecured claims, (ii) payments on account of claims or expenses arising under section 503(b)(9) of the Bankruptcy Code, (iii) payments in respect of a reclamation program or (iv) payments under any management incentive plan or on account of claims or expenses arising under Section 503(c) of the Bankruptcy Code, except in each case in amounts and on terms and conditions that are (a) approved by order of the Bankruptcy Court and (b) expressly permitted by the Budget.

Section 7.16 Maximum DIP Obligations. Permit the amount of Loans outstanding hereunder as of the Plan Effective Date to exceed \$15,000,000 or such greater amount necessary to make any cash payments required or necessary under the Chapter 11 Plan, to satisfy the minimum liquidity conditions of the Exit Credit Facilities and to Cash Collateralize any stand-alone letter of credit facility in an amount not to exceed \$2 million.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01 Events of Default. Any of the following events referred to in any of clauses (a) through (dd) inclusive of this Section 8.01 shall constitute an “Event of Default”:

(a) Non-Payment. Any Loan Party fails to pay when and as required to be paid herein, any amount of principal of any Loan or interest on any Loan or any other amount payable hereunder or with respect to any other Loan Document; or

(b) Specific Covenants. The Borrower or any Subsidiary fails to perform or observe any term, covenant or agreement contained in (i) any of Section 6.03(a) or Section 6.04 or Article VII; or

(c) Other Defaults. Any Loan Party or any Subsidiary thereof fails to perform or observe any other covenant or agreement (not specified in Section 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for five (5) days after the earlier of (i) any Loan Party obtaining knowledge of such failure and (ii) any Loan Party receiving notice of such failure from the Administrative Agent or the Required Lenders; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Loan Party herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be untrue in any material respect when made or deemed made; or

(e) Cross-Default. Any Loan Party or any Subsidiary (A) fails to make any payment beyond the applicable grace period with respect thereto, if any (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness incurred after the Petition Date (other than Indebtedness hereunder) having an aggregate principal amount of not less than the Threshold Amount or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs, the effect of which default or other event 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 or beneficiary or beneficiaries) to cause, with the giving of notice if required, all such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem all such Indebtedness to be made, prior to its stated maturity; or

(f) [Reserved]; or

(g) Judgments. There is entered against any Loan Party or any Subsidiary a final judgment or order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance or by an enforceable indemnity) and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of forty-five (45) consecutive days after the entry thereof; or

(h) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or would reasonably be expected to result in liability of any Loan Party under Title IV of ERISA in an aggregate amount which would reasonably be

expected to result in a Material Adverse Effect or (ii) a Foreign Pension Event occurs with respect to a Foreign Plan that would reasonably be expected to result in a Material Adverse Effect; or

(i) Invalidity of Collateral Documents. (i) Any material provision of any Collateral Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 7.04 or Section 7.05) or as a result of acts or omissions by the Administrative Agent, the Collateral Agent or any Lender or the satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party contests in writing the validity or enforceability of any material provision of any Collateral Document; or any Loan Party denies in writing that it has any or further liability or obligation under any Collateral Document (other than as a result of repayment in full of the Obligations and termination of the Aggregate Commitments), or purports in writing to revoke or rescind any Collateral Document or (ii) a material part of the Liens purported to be created by the Collateral Documents cease to be perfected security interests other than as a result of a release of Collateral permitted under Section 10.20; or

(j) Change of Control. There occurs any Change of Control; or

(k) Defaults on Assumed Obligations. Except for defaults occasioned by the filing of the Chapter 11 Cases and defaults resulting from obligations with respect to which the Bankruptcy Code prohibits any Loan Party from complying or permits any Loan Party not to comply, a default or breach occurs under any agreement, document or instrument entered into either (x) Pre-Petition and which is assumed after the Petition Date or is not subject to the automatic stay provisions of Section 362 of the Bankruptcy Code, or (y) Post-Petition, to which any Loan Party is a party that is not cured within any applicable grace period therefor, and such default or breach (i) involves the failure to make any payment when due in respect of any Indebtedness (other than the Obligations) of any Loan Party in excess of \$1,000,000 in the aggregate, or (ii) causes such Indebtedness, or permits any holder of such Indebtedness or a trustee to cause such Indebtedness, to become due prior to its stated maturity or prior to its regularly scheduled dates of payment; or

(l) Other Financing. Entry of an order (i) approving additional financing under Section 364(c) or (d) of the Bankruptcy Code, (ii) granting any Lien upon or affecting any Collateral other than Liens permitted under this Agreement, (iii) permitting the use of cash collateral, except as permitted hereby or with the prior written consent of the Administrative Agent, or (iv) authorizing or approving any other action adverse to the Administrative Agent's or the Required Lenders' rights and remedies or their interest in the Collateral, or any Loan Party seeking the entry of an order in furtherance of any of the foregoing if any proceeds of the Loans provided hereunder are proposed to be used in such additional financing; or

(m) Dismissal or Conversion of Chapter 11 Cases. Entry of an order dismissing, or any Loan Party seeking the dismissal of, any of the Chapter 11 Cases or converting any of the Chapter 11 Cases to a Chapter 7 case; or

(n) Appointment of Trustee or Examiner. Entry of an order, or any Loan Party seeking the entry of an order, appointing a chapter 11 trustee or an examiner in any of the Chapter 11 Cases having enlarged powers (beyond those set forth under Sections 1106(a)(3) and (4) of the Bankruptcy Code); or

(o) Orders and Motions Adverse to Loan Parties. Entry of an order granting, or any Loan Party filing a motion or any other pleading seeking the entry of an order granting, or any

Person with the support of any Loan Party filing a motion or any other pleading seeking the entry of an order granting any other superpriority administrative expense claim, modifying the Loan Documents, the Interim Order or the Final Order, or granting relief from the automatic stay to permit any secured creditor (other than the Administrative Agent or any Lender) to enforce or otherwise take action with respect to any Collateral, or any breach by any Loan Party of any provision of either the Interim Order or Final Order, in each case, except as consented to in writing by the Administrative Agent and the Required Lenders in accordance with this Agreement; or

(p) Loan Party Payment of Pre-Petition Claims. Payment by any Loan Party or any Debtor of any Pre-Petition claim without the prior written consent of the Administrative Agent unless such payment is permitted by the Budget or made pursuant to any “first day” order entered by the Bankruptcy Court in form and substance acceptable to the Administrative Agent; or

(q) Actions Against Agent or Lenders. The commencement of any action against the Administrative Agent or any Lender or any Related Party of any of them or against the Existing First Lien Agent or any of the Existing First Lien Lenders by or on behalf of any Loan Party or any of its Affiliates, officers or employees; or

(r) Loan Document or Lien Contesting. Any Loan Party shall (a) contest the validity or enforceability of any Loan Document in writing or deny in writing that it has any further liability thereunder, or (b) contest the validity or perfection of the liens and security interests securing the Loans; or

(s) Order Non-Compliance. Failure by any Debtor to comply in any material respect with the Interim Order or Final Order, as applicable; or

(t) Interim Order Termination. Prior to the entry of the Final Order, the Interim Order shall cease to be in full force and effect or shall have been reversed, modified, amended, stayed, vacated or subject to a stay pending appeal, in the case of any modification or amendment, without the prior written consent of the Secured Parties; or

(u) Final Order Termination. The Final Order shall cease to be in full force and effect or shall have been reversed, modified, amended, stayed, vacated or subject to stay pending appeal, in the case of any modification or amendment, without the prior written consent of the Secured Parties; or

(v) 506(c) Claims. From and after entry of the Final Order, allowance of any claim under Section 506(c) of the Bankruptcy Code or otherwise against the Administrative Agent, any Lender or the Collateral, or against the Existing First Lien Agent, any Existing First Lien Lender or the “Collateral” (as defined in the Existing Credit Agreement) securing the “Obligations” (as defined in the Existing Credit Agreement); or

(w) Filing of Unacceptable Plan or Disclosure Statement. The filing of any chapter 11 plan or any amendment thereto or related disclosure statement, or the entry of an order confirming any such chapter 11 plan or approving any such disclosure statement or any such amendment, in each case that is not acceptable to the Administrative Agent and the Required Lenders; or

(x) Termination or Modification of Exclusivity. Any termination or modification of the exclusivity periods set forth in Section 1121 of the Bankruptcy Code unless consented to by the Administrative Agent; or

(y) Restructuring Support Agreement. (i) Any party to the Restructuring Support Agreement terminates the Restructuring Support Agreement, (ii) the Restructuring Support Agreement shall cease to be in full force and effect, or (iii) the Restructuring Support Agreement shall have been amended or otherwise modified without the prior written consent (including any consent given under the Restructuring Support Agreement) of the Administrative Agent acting at the direction of the Required Lenders; and, in each case, a period of five (5) days has lapsed; or

(z) Unapproved Sale. Any sale or other disposition of all or a material portion of the Collateral securing the Loans pursuant to Section 363 of the Bankruptcy Code other than as permitted by the Interim Order or Final Order or the Chapter 11 Plan, or agreed to by the Required Lenders; or

(aa) Termination of Cash Collateral. Any order is entered by the Bankruptcy Court or any other court of competent jurisdiction terminating the Debtors' use of cash collateral; or

(bb) CRO Termination. The termination of, or any vacancy in the office of, the Borrower's chief restructuring officer ("CRO"), unless Borrower appoints a replacement CRO, reasonably acceptable to the Secured Parties, within ten (10) Business Days of such termination or vacancy; or

(cc) Repeal or Modification of Clarity Resolutions. The repeal or material amendment (without the consent of the Secured Parties) of, or any other act or omission of Clarity Holdco, L.P., Clarity GP, LLC or any Loan Party inconsistent with any of the Resolutions (as defined in the Second Forbearance Agreement, dated as of October 14, 2016 (as subsequently amended, modified and / or supplemented)).

Section 8.02 Remedies Upon Event of Default.

(a) If any Event of Default occurs and is continuing, the Administrative Agent may and, at the request of the Required Lenders, shall, following five (5) Business Days' prior notice to the Borrower, take any or all of the following actions:

(i) declare the Commitment of each Lender to make Loans to be terminated, whereupon such commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower; and

(iii) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Law.

Notwithstanding the foregoing, prior to the exercise of any enforcement or liquidation remedies against the Collateral, the Administrative Agent shall seek relief from the automatic stay on seven days' notice to foreclose on all or any portion of the Collateral.

Section 8.03 [Reserved].

Section 8.04 Application of Funds. Except as otherwise provided in the Interim Order or Final Order, as applicable, all payments, distributions or proceeds of Collateral received at any time by, or payable or distributable at any time to, the Administrative Agent or any Lender on account of any Obligations shall be applied as follows:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 10.04 and amounts payable under Article III) payable to each Agent in its capacity as such, ratably among them in proportion to the amounts described in this clause First payable to them;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including Attorney Costs payable under Section 10.04 and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest (including, but not limited to, post-petition interest), ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal, Unreimbursed Amounts or face amounts of the Loans, and L/C Borrowings, ratably among the Secured Parties in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the payment of all other Obligations of the Loan Parties that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties on such date;

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

Section 8.05 [Reserved].

ARTICLE IX

ADMINISTRATIVE AGENT AND OTHER AGENTS

Section 9.01 Appointment and Authorization of Agents.

(a) Each Lender hereby irrevocably appoints, designates and authorizes the Administrative Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Loan Document, the Administrative Agent shall have no duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and

no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term “agent” herein and in the other Loan Documents with reference to any 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 merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

(b) The L/C Issuer shall act on behalf of the L/C Participants with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (i) provided to the Agents in this Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the applications and agreements for letters of credit pertaining to such Letters of Credit as fully as if the term “Agent” as used in this Article IX and in the definition of “Agent-Related Person” included the L/C Issuer with respect to such acts or omissions, and (ii) as additionally provided herein with respect to the L/C Issuer.

(c) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (in its capacities as a Lender and L/C Issuer) hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of (and to hold any security interest, charge or other Lien created by the Collateral Documents for and on behalf of or on trust for) such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties 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, subagents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.02 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral 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 Article IX (including Section 9.07, as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto.

Section 9.02 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement or any other Loan Document (including for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents or of exercising any rights and remedies thereunder) by or through Affiliates, agents, employees or attorneys-in-fact, such sub-agents as shall be deemed necessary by the Administrative Agent, and shall be entitled to advice of counsel, both internal and external, and other consultants or experts concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or sub-agent or attorney-in-fact that it selects in the absence of gross negligence, willful misconduct or bad faith.

Section 9.03 Liability of Agents. No Agent-Related Person shall (a) be liable to any Lender for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence, willful misconduct or bad faith, as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein), or (b) be responsible in any manner to any Lender or participant for any recital, statement, representation or warranty made by any Loan Party or any officer thereof, contained herein or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness,

enforceability or sufficiency of this Agreement or any other Loan Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Collateral Documents, or for any failure of any Loan Party or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender or participant to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof.

Section 9.04 Reliance by Agents.

(a) Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, electronic mail message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Loan Party), independent accountants and other experts selected by such Agent. Each Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders.

(b) For purposes of determining compliance with the conditions specified in Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Section 9.05 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders, unless the Administrative Agent shall have received written notice from a Lender or the Borrower referring to this Agreement, describing such Default and stating that such notice is a “notice of default.” The Administrative Agent will notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to any Event of Default as may be directed by the Required Lenders in accordance with Article VIII; provided that unless and until the Administrative Agent has received any such direction, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable or in the best interest of the Lenders.

Section 9.06 Credit Decision; Disclosure of Information by Agents. Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to each Agent

that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person 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 Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

Section 9.07 Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless each Agent-Related Person from and against any and all Indemnified Liabilities incurred by it; provided that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's own gross negligence, willful misconduct or bad faith, as determined by the final judgment of a court of competent jurisdiction; provided that no action taken in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence, willful misconduct or bad faith for purposes of this Section 9.07. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 9.07 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower; provided that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto, if any. The undertaking in this Section 9.07 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent.

Section 9.08 Agents in their Individual Capacities. CS and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire Equity Interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with each of the Loan Parties and their respective Affiliates as though CS were not the Administrative Agent hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, CS or its Affiliates may receive information regarding any Loan Party or any Affiliate of a Loan Party (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to its Loans, CS shall have the same rights and powers

under this Agreement as any other Lender and may exercise such rights and powers as though it were not the Administrative Agent, and the terms “Lender” and “Lenders” include CS in its individual capacity.

Section 9.09 Successor Agents. The Administrative Agent may resign as the Administrative Agent upon thirty (30) days’ notice to the Lenders and the Borrower. If the Administrative Agent and/or Collateral Agent becomes a Defaulting Lender, then such Administrative Agent or Collateral Agent, as the case may be, may be removed as the Administrative Agent or Collateral Agent, as the case may be, at the reasonable request of the Borrower and the Required Lenders. If the Administrative Agent resigns or is removed under this Agreement, the Required Lenders shall appoint a successor agent for the Lenders, which appointment of a successor agent shall require the consent of the Borrower at all times (which consent of the Borrower shall not be unreasonably withheld or delayed). If no successor agent is appointed prior to the effective date of the resignation (but not removal) of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Borrower, a successor agent. Upon the acceptance of its appointment as successor agent hereunder, the Person acting as such successor agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term “Administrative Agent” shall mean such successor administrative agent (and the term “Collateral Agent” shall mean such successor collateral agent and/or supplemental agent, as described in Section 9.01(c)), and the retiring or removed Administrative Agent’s appointment, powers and duties as the Administrative Agent shall be terminated. After the retiring or removed Administrative Agent’s resignation hereunder as the Administrative Agent, the provisions of this Article IX and Section 10.04 and Section 10.05 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent under this Agreement. If no successor agent has accepted appointment as the Administrative Agent by the date which is 30 days following the retiring (but not removed) Administrative Agent’s notice of resignation, the retiring Administrative Agent’s resignation shall nevertheless thereupon become effective and the Lenders shall perform all the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above or in the absence of such an appointment as the Administrative Agent shall appoint at or after the expiration of the 30 days following the Administrative Agent’s notice of resignation. Upon the acceptance of any appointment as the Administrative Agent hereunder by a successor and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to any mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may reasonably request, in order to (a) continue the perfection of the Liens granted or purported to be granted by the Collateral Documents or (b) otherwise ensure that the Collateral and Guarantee Requirement is satisfied, the Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, discretion, privileges, and duties of the retiring Administrative Agent, and the retiring or removed Administrative Agent shall be discharged from its duties and obligations under the Loan Documents.

Section 9.10 Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, including the Chapter 11 Cases, the Administrative Agent (irrespective of whether the principal of any Loan or L/C 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, L/C 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 and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the

Administrative Agent under Section 2.09 and Section 10.04) 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

(c) any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due to the Administrative Agent under Section 2.09 and Section 10.04.

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 any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 9.11 Collateral and Guaranty Matters. The Lenders irrevocably agree that any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document may be released or subordinated in accordance with the provisions of Section 10.20.

Upon request by the Administrative Agent at any time, the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with Section 10.01) will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.11 and Section 10.20.

Section 9.12 Other Agents; Managers. None of the Lenders or other Persons so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

Section 9.13 Withholding Tax. To the extent required by any applicable Law, the Administrative Agent may deduct or withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If the Internal Revenue Service or any other Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender under any Loan Document (because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of, withholding Tax ineffective or for any other reason or any failure under any Loan Document by such Lender), such Lender shall indemnify and hold harmless the Administrative Agent fully for all amounts paid by the Administrative Agent as Tax, and together with all reasonable expenses incurred (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for any such Taxes or expenses incurred), whether or not such Tax was 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 Loan Document against any amount due the Administrative Agent under this Section 9.13. The agreements in this Section 9.13 shall survive the resignation and/or replacement of the Administrative

Agent, any assignment of rights by, or the replacement of, a Lender, the termination of this Agreement and the repayment, satisfaction or discharge of all other obligations. For the avoidance of doubt, (1) the term "Lender" shall, for purposes of this Section 9.13, include the L/C Issuer and (2) this Section 9.13 shall not limit or expand the obligations of the Borrower or any Guarantor under Section 3.01 or any other provision of this Agreement.

Section 9.14 [Reserved].

Section 9.15 [Reserved].

Section 9.16 [Reserved].

ARTICLE X

MISCELLANEOUS

Section 10.01 Amendments, Etc. Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders (or the Administrative Agent on behalf of, and acting at the direction of, the Required Lenders) and the Borrower or the applicable Loan Party, as the case may be, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided that no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender without the written consent of each Lender directly and adversely affected thereby (it being understood that a waiver of any condition precedent set forth in Section 4.02 or the waiver of any Default, Event of Default, mandatory prepayment or mandatory reduction of the Commitments or Loans shall not constitute an extension or increase of any Commitment of any Lender) (provided that any Lender, upon the request of the Borrower, may extend the maturity date of any of such Lender's Commitments without the consent of any other Lender, including the Required Lenders);

(b) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest under Section 2.07 or Section 2.08 without the written consent of each Lender directly and adversely affected thereby (it being understood that a waiver of any condition precedent set forth in Section 4.02 or the waiver of any Default, Event of Default, mandatory prepayment or mandatory reduction of the Commitments or Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest (provided that any Lender, upon the request of the Borrower, may extend the maturity date of any Loans owing to such Lender without the consent of any other Lender, including the Required Lenders));

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing (it being understood that a waiver of any condition precedent set forth in Section 4.02 or waiver of any Default, Event of Default or mandatory prepayment shall not constitute a reduction or forgiveness of principal), or (subject to clause (ii) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby (it being understood that any change to the definition of First Lien Senior Secured Leverage Ratio, the Total Leverage Ratio or the Total Senior Secured Leverage Ratio or in the component definitions thereof shall not constitute a reduction in the rate of interest; provided that only the consent of the

Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate);

(d) (i) amend, modify or waive any provision of this Section 10.01 that has the effect of lowering the number of Lenders that must approve any amendment, modification or waiver, in each case without the written consent of each Lender or (ii) reduce the percentages specified in the definition of the term "Required Lenders", or

(e) other than in a transaction permitted under Section 7.04 or Section 7.05, release all or substantially all of the Collateral in any transaction or series of related transactions (except as expressly permitted by the Collateral Documents or this Agreement), without the written consent of each Lender; or

(f) other than in a transaction permitted under Section 7.04 or Section 7.05, release all or substantially all of the Guarantees in any transaction or series of related transactions (except as expressly permitted by the Collateral Documents or this Agreement), without the written consent of each Lender;

and provided, further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, adversely affect the rights or duties of the L/C Issuer under this Agreement relating to any Letter of Credit issued by it; and (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, adversely affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document. Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent 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 Loan Documents with the 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 Loans.

Notwithstanding anything in this Agreement or any Collateral Document to the contrary, the Administrative Agent may, in its sole discretion, grant extensions of time for the satisfaction of any of the requirements under Sections 6.10 and Section 6.12 or any Collateral Documents in respect of any particular Collateral or any particular Subsidiary if it determines that the satisfaction thereof with respect to such Collateral or such Subsidiary cannot be accomplished without undue expense or unreasonable effort or due to factors beyond the control of the Borrower and the Subsidiaries by the time or times at which it would otherwise be required to be satisfied under this Agreement or any Collateral Document.

Notwithstanding anything herein to the contrary, any provision of this Agreement or any other Loan Document may be amended by an agreement in writing entered into by the Borrower and the Administrative Agent to (x) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent and the Borrower) and (y) effect administrative changes of a technical or immaterial nature (including to effect changes to the terms and conditions applicable solely to the L/C Issuer in respect of Letters of Credit and such amendment shall be deemed approved by the Lenders if the Lenders shall have received at least five (5) Business Days' prior written notice of such change and the Administrative Agent shall not have received, within five (5) 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.

Notwithstanding anything to the contrary contained in this Section 10.01, any guarantees, collateral security documents related documents executed by Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended, supplemented and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment, supplement or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities, omissions, mistakes or defects, (iii) to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Loan Documents or (iv) add syndication or documentation agents and make customary changes and references related thereto.

Section 10.02 Notices and Other Communications; Facsimile Copies.

(a) General. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Loan Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, 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 or the L/C Issuer, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02 or to such other address, facsimile 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, facsimile number, electronic mail address or telephone number as shall be designated by such party in a written notice to the Borrower, the Administrative Agent and the L/C Issuer.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, four (4) Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail (which form of delivery is subject to the provisions of Section 10.02(c)), when delivered; provided that notices and other communications to the Administrative Agent and the L/C Issuer pursuant to Article II shall not be effective until actually received by such Person during the person's normal business hours. In no event shall a voice mail message be effective as a notice, communication or confirmation hereunder.

(b) Platform.

(i) The Borrower hereby acknowledges that (x) the Administrative Agent will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, the "Borrower Materials") by posting the Borrower Materials on an electronic system designated by the Administrative Agent (the "Platform") and (y) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to Holdings (or any parent thereof) or the Borrower or any of their respective securities) (each, a "Public Lender"). The Borrower hereby agrees that (A) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Administrative Agent

and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to Holdings (or any parent thereof) or the Borrower or any of their respective securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.08); (B) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor"; and (C) the Administrative Agent shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not marked as "Public Investor." Notwithstanding the foregoing, the following Borrower Materials shall be deemed to be marked "PUBLIC" unless the Borrower notifies the Administrative Agent promptly that any such document contains material non-public information: (1) the Loan Documents, (2) notification of changes in the terms of the Credit Facilities and (3) all information delivered pursuant to Sections 6.01.

(ii) Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and Applicable Law, including United States Federal and state securities laws, to make reference to Communications that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to Holdings (or any parent thereof) or the Borrower or any of their respective securities for purposes of United States Federal or state securities laws.

(iii) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS RELATED PARTIES WARRANTS THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS OR THE ADEQUACY OF THE PLATFORM AND EACH EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. 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 THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS RELATED PARTIES HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, WHETHER OR NOT BASED ON STRICT LIABILITY AND INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY LOAN PARTY'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET, EXCEPT TO THE EXTENT THE LIABILITY OF ANY SUCH PERSON IS FOUND IN A FINAL RULING BY A COURT OF COMPETENT JURISDICTION TO HAVE RESULTED PRIMARILY FROM SUCH PERSON'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

(c) Effectiveness of Facsimile Documents and Signatures. Loan Documents may be transmitted and/or signed by facsimile or other electronic communication. The effectiveness of

any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually signed originals and shall be binding on all Loan Parties, the Agents and the Lenders. The words “execution,” “signed,” “signature,” and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(d) Reliance by Agents and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan 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 may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

(e) Notice to other Loan Parties. The Borrower agrees that notices to be given to any other Loan Party under this Agreement or any other Loan Document may be given to the Borrower in accordance with the provisions of this Section 10.02 with the same effect as if given to such other Loan Party in accordance with the terms hereunder or thereunder.

Section 10.03 No Waiver; Cumulative Remedies. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document 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, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Section 10.04 Attorney Costs and Expenses. The Borrower agrees (a) to pay or reimburse the Administrative Agent, the Collateral Agent and the Lenders⁶ for all reasonable and documented or invoiced out-of-pocket costs and expenses associated with the syndication of the Loans and the preparation, execution and delivery, administration, amendment, modification, waiver and/or enforcement of this Agreement and the other Loan Documents, and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), including all Financial Advisor Costs of Houlihan Lokey and all Attorney Costs of Gibson, Dunn & Crutcher LLP and Jones Day (and local counsel in each relevant jurisdiction or otherwise retained with the Borrower’s consent (such consent not to be unreasonably withheld, conditioned or delayed)) and (b) to pay or reimburse the Administrative Agent and the Collateral Agent for all reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents, including Financial Advisor Costs of Houlihan Lokey and Attorney Costs of Gibson, Dunn & Crutcher LLP and Jones Day (and, to the extent required, local counsel in each relevant local jurisdiction), which may include a single special counsel acting in multiple jurisdictions). Subject to the limitations above, the foregoing costs and expenses shall include all reasonable search, filing, recording and title insurance

⁶[NTD: Houlihan is jointly engaged by the Lenders and Agent, and Jones Day is engaged by the Lenders.]

charges and fees related thereto, and other reasonable and documented or invoiced out-of-pocket expenses incurred by the Administrative Agent, the Collateral Agent or the Lenders. The agreements in this Section 10.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 10.04 shall be paid within ten (10) Business Days of receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail.

Section 10.05 Indemnification by the Borrower. The Borrower shall indemnify and hold harmless each Agent, each Lender (without duplication) and their respective Affiliates, directors, officers, employees, agents, advisors, and other representatives (collectively, the “Indemnitees”) and hold them harmless from and against any and all losses, claims, damages and liabilities of any kind or nature and documented or invoiced out-of-pocket fees and expenses (and, in the case of Attorney Costs, reasonable Attorney Costs of one firm of counsel for all Indemnitees and, if necessary, one firm of local counsel in each appropriate jurisdiction (which may include a single special counsel acting in multiple jurisdictions) for all Indemnitees taken as a whole (and, in the case of an actual or perceived conflict of interest, where the Indemnatee affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, of such other firm of counsel for such affected Indemnatee)) (collectively, the “Losses”) of any such Indemnatee arising out of or relating to any claim or any litigation or other proceeding (including any inquiry or investigation of the foregoing) (regardless of whether such Indemnitees is a party thereto and whether or not such proceedings are brought by the Borrower, its equity holders, its Affiliates, creditors or any other third person) that relates to the Transactions, including the financing contemplated hereby (collectively, the “Indemnified Liabilities”) and any Losses that relate to any actual or alleged presence or Release or threatened Release of Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower or any Subsidiary or any other liability arising under Environmental Law, in each case arising out of the activities or operations of the Borrower or any Subsidiary; provided that no Indemnatee will be indemnified for any Losses or related expenses to the extent it has resulted from the gross negligence or willful misconduct of such Indemnatee or any of its Affiliates or any of the officers, directors, employees, advisors, agents or other representatives of any of the foregoing (as determined by a court of competent jurisdiction in a final and non-appealable decision; provided, further, that the Administrative Agent, the Collateral Agent and the L/C Issuer to the extent fulfilling their respective roles as an agent under the Facilities and in their capacities as such, shall remain indemnified in respect of such claim, litigation, investigation or other proceeding, to the extent that none of the exceptions set forth in clauses (w), (x) or (y) of the immediately preceding proviso apply to such person at such time. No Indemnatee shall be liable for any damages arising from the use by others of any information or other materials obtained through information transmission systems designated by the Administrative Agent in connection with this Agreement except to the extent that such damages have resulted from the willful misconduct, bad faith or gross negligence of such Indemnatee or any of such Indemnatee’s Affiliates or any of its or their respective officers, directors, employees, agents, advisors or other representatives (as determined by a court of competent jurisdiction in a final and non-appealable decision). No Indemnatee and no Loan Party shall have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date); provided that nothing in this sentence shall limit the indemnification obligations of the Loan Parties set forth herein or in any other Loan Document. All amounts due under this Section 10.05 shall be paid within ten (10) Business Days after demand therefor; provided, however, that such Indemnatee shall promptly refund such amount to the extent that there is a final judicial or arbitral determination that such Indemnatee was not entitled to indemnification or contribution rights with respect to such payment pursuant to the express terms of this Section 10.05. The agreements in this Section 10.05 shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. For the avoidance of doubt, this Section 10.05 shall not apply to Taxes other than Taxes that represent liabilities, obligations, losses, damages, etc., with respect to a non-Tax claim.

Section 10.06 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate.

Section 10.07 Successors and Assigns.

(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, except that, except as otherwise provided herein (including without limitation as permitted under Section 7.04 and Section 7.10), neither Holdings nor the Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee, (ii) by way of participation in accordance with the provisions of Section 10.07(e), (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.07(g) or (iv) to an SPC in accordance with the provisions of Section 10.07(h) (and any other attempted assignment or transfer by any party hereto shall be null and void). 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, Participants to the extent provided in Section 10.07(e) and, to the extent expressly contemplated hereby, the Indemnitees) 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 (b)(ii) below and acceptance and recording by the Administrative Agent pursuant to paragraph (d) of this Section 10.07, any Lender may assign to one or more assignees (“Assignees”) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent of the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Loan to another Lender, an Affiliate of a Lender or an Approved Fund.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender’s Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$1,000,000 unless the Borrower and the Administrative Agent otherwise consents; provided that (1) no such consent of the Borrower shall be required if an Event of Default under Section 8.01(a) has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds, if any;;

(B) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption;

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent any documentation required by Section 3.01(f) and (g); and

(D) the Assignee shall not be a Disqualified Lender.

This paragraph (b) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

(c) Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 10.07(d) and receipt by the Administrative Agent from the parties to each assignment of a processing and recordation fee of \$3,500, which fee may be waived only by the Administrative Agent in its sole discretion (provided that it is understood and agreed that such fee shall not apply to assignments by CS or any of its Affiliates), from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, 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 Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption 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 of Sections 3.01, 3.04, 3.05, 10.04 and 10.05 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, and the surrender by the assigning Lender of its Note (if any), the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this clause (c) 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 10.07(e). For greater certainty, any assignment by a Lender pursuant to this Section 10.07 shall not in any way constitute or be deemed to constitute a novation, discharge, recession, extinguishment or substitution of the existing Indebtedness and any Indebtedness so assigned shall continue to be the same obligation and not a new obligation.

(d) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and related stated interest amounts) of the Loans, L/C Obligations (specifying the Unreimbursed Amounts), L/C Borrowings and amounts due under Section 2.10, owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agents 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 shall be available for inspection by the Borrower, any Agent and any Lender with respect to its own Loans and/or Commitments only, at any reasonable time and from time to time upon reasonable prior notice.

(e) Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or a Disqualified Lender) (each, a "Participant") in all or a portion of such Lender's rights and/or

obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Agents 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. 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 the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or the other Loan Documents; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Section 10.01(a), (b), (c), (e) or (f) that directly and adversely affects such Participant. Subject to Section 10.07(f), the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 (through the applicable Lender), subject to the requirements and limitations of such Sections (including Sections 3.01(e), (f) and (g) and Sections 3.06 and 3.07, to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.07(b). To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 10.09 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 as though it were a Lender. Any Lender that sells participations shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and the address of each Participant and the principal amounts (and related stated interest amounts) of each Participant's participation interest in the Commitments and/or Loans (or other rights or obligations) held by it (the "Participant Register"); provided that 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, Loans, Letters of Credit or its other obligations under any Loan Document), except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation interest as the owner thereof for all purposes notwithstanding any notice to the contrary. Notwithstanding anything to the contrary, no Lender, by maintaining the Participant Register, undertakes any duty, responsibility or obligation to the Borrower (including, without limitation, that in no event shall any such Lender be a fiduciary of the Borrower for any purpose, except that such Lender shall maintain the Participant Register).

(f) A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent or except to the extent such entitlement to a greater payment results from a Change in Law after the Participant became a Participant.

(g) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment shall release such 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 the 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 evidencing the Loan owing to such Lender.

(h) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "SPC") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (i) an SPC shall be entitled to the benefit of Sections 3.01, 3.04 and 3.05, subject to the requirements and limitations of such Sections (including Sections 3.01(e), (f) and (g)) and Sections 3.06 and 3.07, to the same extent as if such SPC were a Lender, but neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.01, 3.04 or 3.05) except to the extent any entitlement to greater amounts results from a Change in Law after the grant to the SPC occurred, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable and such liability shall remain with the Granting Lender, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee Obligation or credit or liquidity enhancement to such SPC.

(i) Notwithstanding anything to the contrary contained herein, (1) any Lender may in accordance with applicable Law create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it and (2) any Lender that is a Fund may create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it to the trustee for holders of obligations owed, or securities issued, by such Fund as security for such obligations or securities; provided that unless and until such trustee actually becomes a Lender in compliance with the other provisions of this Section 10.07, (i) no such pledge shall release the pledging Lender from any of its obligations under the Loan Documents and (ii) such trustee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents even though such trustee may have acquired ownership rights with respect to the pledged interest through foreclosure or otherwise.

Section 10.08 Confidentiality. Each of the Agent and the Lenders agrees to maintain the confidentiality of the Information and to not disclose such information, except that Information may be disclosed (a) to its Affiliates and its and its Affiliates' directors, officers, employees, trustees, investment advisors and agents, including accountants, legal counsel and other advisors and any numbering, administration or settlement service providers (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent requested by any Governmental Authority (in which case the Agents and the Lenders agree (except with respect to any audit or examination conducted by bank

accountants or regulatory authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable Law, to inform the Borrower promptly thereof prior to disclosure); (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process (in which case the Agents and the Lenders agree (except with respect to any subpoena issued by bank accountants or regulatory authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable Law, to inform the Borrower promptly thereof prior to disclosure); (d) to any other party to this Agreement; (e) subject to an agreement containing provisions substantially the same as those of this Section 10.08 (or as may otherwise be reasonably acceptable to the Borrower), to any pledgee referred to in Section 10.07(g) or Section 10.07(i), Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement; (f) with the written consent of the Borrower; (g) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 10.08 or similar obligation of confidentiality or (ii) becomes available to any Agent, any Lender, or any of their respective Affiliates on a nonconfidential basis from a source other than Holdings, the Borrower or any Subsidiary thereof, and which source is not known by such Agent or Lender to be subject to a confidentiality restriction in respect thereof in favor of the Borrower, any Permitted Holder or any of their respective Affiliates; and (h) to any Governmental Authority or examiner regulating any Lender (in which case the Agents and the Lenders agree (except with respect to any audit or examination conducted by bank accountants or regulatory authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable Law, to inform the Borrower promptly thereof prior to disclosure). For the purposes of this Section 10.08, “Information” means all information received from any Loan Party or its Affiliates or its Affiliates’ directors, officers, employees, trustees, investment advisors or agents, relating to Holdings, the Borrower or any of their subsidiaries or their business, other than any such information that is publicly available to any Agent or any Lender prior to disclosure by any Loan Party other than as a result of a breach of this Section 10.08 or similar obligation of confidentiality, including, without limitation, information delivered pursuant to Section 6.01, 6.02 or 6.03 hereof.

Section 10.09 Setoff. In addition to any rights and remedies of the Lenders provided by Law, upon the occurrence and during the continuance of any Event of Default, each Lender and the L/C Issuer is authorized at any time and from time to time, without prior notice to the Borrower or any other Loan Party, any such notice being waived by the Borrower (on its own behalf and on behalf of each Loan Party and its Subsidiaries) to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other Indebtedness at any time then due and owing by, such Lender or the L/C Issuer, as the case may be, to or for the credit or the account of the respective Loan Parties and their Subsidiaries against any and all Obligations then due and owing to such Lender or the L/C Issuer hereunder or under any other Loan Document, now or hereafter existing, irrespective of whether or not such Agent or such Lender shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or denominated in a currency different from that of the applicable deposit or Indebtedness; 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 8.04 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 L/C Issuers and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations then due and owing to such Defaulting Lender as to which it exercised such right of set-off. Each Lender and the L/C Issuer agrees promptly to notify the Borrower and the Administrative Agent after any such set off and application made by such Lender or the L/C Issuer, as the case may be; provided that the failure to give such notice shall not affect the validity of such setoff and application. The rights of the Administrative Agent, each Lender and the L/C Issuer under this Section 10.09 are in addition to other

rights and remedies (including other rights of setoff) that the Administrative Agent, such Lender and the L/C Issuer may have.

Section 10.10 Counterparts. This Agreement and each other Loan Document may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by telecopier or other electronic means of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The Agents may also require that any such documents and signatures delivered by telecopier or other electronic means be confirmed by a manually signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature delivered by telecopier or such other electronic means.

Section 10.11 Integration. This Agreement, together with the other Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. In the event of any conflict between the provisions of this Agreement and those of any other Loan Document, the provisions of this Agreement shall control; provided that the inclusion of supplemental rights or remedies in favor of the Agents or the Lenders in any other Loan Document shall not be deemed a conflict with this Agreement. Each Loan Document was drafted with the joint participation of the respective parties thereto and shall be construed neither against nor in favor of any party, but rather in accordance with the fair meaning thereof.

Section 10.12 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by each Agent and each Lender, regardless of any investigation made by any Agent or any Lender or on their behalf and notwithstanding that any Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

Section 10.13 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 10.14 GOVERNING LAW.

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK AND, TO THE EXTENT APPLICABLE, THE BANKRUPTCY CODE.

(b) ANY LEGAL ACTION OR PROCEEDING ARISING UNDER THIS AGREEMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, SHALL BE BROUGHT IN THE BANKRUPTCY COURT AND, IF THE BANKRUPTCY COURT DOES NOT HAVE (OR ABSTAINS FROM) JURISDICTION, THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY OR OF THE UNITED STATES FOR THE SOUTHERN

DISTRICT OF NEW YORK (PROVIDED THAT IF NONE OF SUCH COURTS CAN AND WILL EXERCISE SUCH JURISDICTION, SUCH EXCLUSIVITY SHALL NOT APPLY), AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE BORROWER, HOLDINGS, EACH AGENT AND EACH LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THOSE COURTS. THE BORROWER, HOLDINGS, EACH AGENT AND EACH LENDER IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF ANY LOAN DOCUMENT OR OTHER DOCUMENT RELATED THERETO. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(c) THE BORROWER IRREVOCABLY CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING TO THE BORROWER AT THE ADDRESS PROVIDED FOR IT ON SCHEDULE 10.02. NOTHING IN THIS SECTION LIMITS THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY LENDER TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 10.15 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 10.15 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

Section 10.16 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower and Holdings and the Administrative Agent shall have been notified by each Lender and the L/C Issuer that each such Lender and the L/C Issuer have executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, each Agent and each Lender and their respective successors and assigns, except that the Borrower shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders except as permitted by Section 7.04.

Section 10.17 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that

in which such sum is denominated in accordance with the applicable provisions of this Agreement (the “Agreement Currency”), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable Law).

Section 10.18 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party or any other obligor under any of the Loan Documents (including the exercise of any right of setoff, rights on account of any banker’s lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent. The provisions of this Section 10.18 are for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.

Section 10.19 USA PATRIOT Act. Each Lender hereby notifies the Borrower that, pursuant to the requirements of the USA PATRIOT Act, it is or may be 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 USA PATRIOT Act.

Section 10.20 Release of Collateral and Guarantee Obligations.

(a) The Lenders hereby irrevocably agree that the Liens granted to the Secured Parties by the Loan Parties on any Collateral shall be automatically released (i) in full, as set forth in clause (b) below, (ii) upon the Disposition of such Collateral to any Person other than another Loan Party, to the extent such Disposition is permitted hereunder (and the Administrative Agent and the Collateral Agent may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (iii) to the extent such Collateral is comprised of property leased to a Loan Party by a Person that is not a Loan 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 10.01), (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 4.13 of the Guarantee), (vi) as required by the Administrative Agent or the Collateral Agent to effect any sale, transfer or other disposition of Collateral in connection with any exercise of remedies of the Administrative Agent or Collateral Agent pursuant to the Collateral Documents and (vii) to the extent such Collateral otherwise becomes an Excluded Equity Interest or an Excluded Asset. 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 Loan Parties in respect of) all interests retained by the Loan 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 Loan 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 Subsidiary, or otherwise becoming an Excluded Subsidiary, in each case, solely to the extent such Subsidiary ceasing to constitute a Subsidiary or otherwise becoming an Excluded Subsidiary is not prohibited by this Agreement. 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 Loan Document relating to any such Collateral or Guarantor shall no longer be deemed to be repeated solely with respect to such Collateral or Guarantor.

(b) Notwithstanding anything to the contrary contained herein or any other Loan Document, when all Obligations (other than contingent indemnification obligations and other contingent obligations) have been paid in full, all Commitments have terminated or expired and no Letter of Credit shall be outstanding that is not back-stopped in a manner reasonably satisfactory to the L/C Issuer, 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 Loan Document, whether or not on the date of such release there may be any contingent indemnification obligations and other contingent obligations. 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 the foregoing or anything in the Loan 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.

Section 10.21 Conflicts with Other Loan Documents, Interim Order or Final Order. In the event there is a conflict or inconsistency between this Agreement and any other Loan Document (other than the Interim Order or Final Order), the terms of this Agreement shall control; provided that any provision of the Collateral Documents which imposes additional burdens on the Loan Parties or further restricts the rights of the Loan Parties or gives the Administrative Agent or Lenders additional rights, in each case, with respect to the Collateral, shall not be deemed to be in conflict or inconsistent with this Agreement and shall be given full force and effect. Notwithstanding anything to the contrary in the preceding sentence, in the event of any inconsistency between the terms and conditions of this Agreement and the Interim Order or the Final Order (whichever is then in effect), the provisions of the Interim Order or the Final Order (whichever is then in effect) shall govern and control.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

ANSWERS CORPORATION,
as the Borrower

By: _____
Name:
Title:

ANSWERS HOLDINGS, INC.
as Holdings

By: _____
Name:
Title:

CREDIT SUISSE AG, CAYMAN ISLANDS
BRANCH,
as Administrative Agent and Collateral Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH
as L/C Issuer

By: _____
Name:
Title:

By: _____
Name:
Title:

CREDIT SUISSE AG, CAYMAN ISLANDS
BRANCH,
as a Lender

By: _____
Name:
Title:

By: _____
Name:
Title: