

Exhibit 1

DIP Credit Agreement

Execution Version

SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

Dated as of June [], 2024

among

VYAIR COMPANY,
as Holdings,

VYAIR MEDICAL, INC.,
as U.S. Borrower,

VYAIR FINANCE B.V.,
as the Dutch Borrower,

The Other Lenders from Time to Time Party Hereto

and

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as Administrative Agent and Collateral Agent

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EXHIBITS

Form of

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V	–	Approved Budget

SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

This Senior Secured Superpriority Debtor-in-Possession Credit Agreement is entered into as of June [], 2024, among Vyair Company, a Delaware corporation (“Holdings”), Vyair Medical, Inc. (the “U.S. Borrower”), Vyair Finance B.V., a private limited liability company (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands, with its statutory seat in Amersfoort, the Netherlands, registered with the Dutch trade register under number 71190244 and Wholly-Owned Subsidiary of the U.S. Borrower (the “Dutch Borrower”, together with the U.S. Borrower, the “Borrowers”), Wilmington Savings Fund Society, FSB (“WSFS”), as Administrative Agent and Collateral Agent, and each lender from time to time party hereto (collectively, the “Lenders” and, individually, a “Lender”; each as hereafter further defined).

PRELIMINARY STATEMENTS

On June [9], 2024 (the “Petition Date”), Holdings, the Borrower and certain Domestic Subsidiaries of the Borrower (collectively, the “Debtors” and, each individually, a “Debtor”) voluntarily commenced chapter 11 cases (the “Chapter 11 Cases”) under Chapter 11 of the U.S. Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) and the Debtors have retained possession of their assets and are authorized under the Bankruptcy Code to continue the operations of their businesses as debtors-in-possession.

Prior to the Petition Date, the Lenders (together with the Prepetition Lenders (as defined below)) provided financing to the Borrowers pursuant to that certain First Lien Credit Agreement, dated as of April 16, 2018, among Holdings, the U.S. Borrower and the Dutch Borrower, as borrowers, Bank of America, N.A., as Administrative Agent and Collateral Agent (the “Prepetition Agent”), and the lenders party thereto from time to time (the “Prepetition Lenders”) (as so amended, and as further amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Prepetition Credit Agreement”).

On the Petition Date, the Prepetition Lenders were owed approximately \$[] in outstanding principal balance of Term Loans (as defined in the Prepetition Credit Agreement) (the “Prepetition Term Loans”) plus interest, fees, costs and expenses and all other Prepetition Obligations under the Prepetition Credit Agreement.

The Borrowers have requested that the Lenders extend credit to the Borrowers in the form of (i) term loans in an initial aggregate principal amount equal to \$45,000,000 (the “DIP Term Loans”) available in Dollars and (ii) a term loan facility in an aggregate principal amount not to exceed \$135,000,000 (the “Roll-Up Loans”, together with the DIP Term Loans, the “Term Loans”), which Roll-Up Loans will result from the conversion from and exchange of certain of the Prepetition Term Loans.

In consideration of the 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:

“Acceptable Bid” means a bid or series of bid for all or substantially all of the Debtors’ assets, in which the aggregate cash consideration for such bid or bids would be payable to the DIP Lenders in satisfaction of the DIP Term Loans plus interest, fees, costs and expenses in accordance with the RSA, and is not less than \$[___].

“Acceptable Plan” means a joint plan of liquidation that may be filed by the Debtors under chapter 11 of the Bankruptcy Code that embodies the Restructuring Transactions (as defined in the RSA) to be consistent in all respects with the RSA; provided that the terms in such Acceptable Plan shall be subject to the consent of the Required Lenders in accordance with the RSA terms.

“Actual Borrower Professional Fees” means with respect to any period, the amount of restructuring and professional fees expended during such period for which the Loan Parties are liable for payment (including as reimbursement to any Secured Party or the Lender Advisors) that correspond to the heading “Professional Fees” in the Approved Budget as then in effect.

“Actual Cash Receipts” shall mean with respect to any period, as the context requires, (x) the amount of actual receipts during such period of the Loan Parties (excluding any borrowings under this Agreement or the Amended Existing Credit Agreement) under the heading “Total Operating Receipts” in the Approved Budget and/or (y) the sum, for such period, of all such receipts for all such line items which comprise “Total Operating Receipts” (as set forth in the Approved Budget), on a cumulative basis, in each case, as determined by reference to the Approved Budget as then in effect. For the avoidance of doubt, any proceeds received from asset sales shall be excluded.

“Actual Disbursement Amounts” shall mean with respect to any period, the sum, for such period, of all such disbursements for all such line items which comprise “Total Operating Disbursements”, “Total Non-Operating Receipts / (Disbursements)”, and “Total Restructuring Receipts/ (Disbursements)” (as set forth in the Approved Budget) on a cumulative basis, as determined by reference to the Approved Budget as then in effect.

“Additional Roll-Up Lender” shall have the meaning set forth in Section 2.05(e)(ii).

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

“Administrative Agent Fee Letter” means that certain Fee Letter dated as of the Closing Date between the Borrowers and the Administrative Agent.

“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 Borrowers and the Lenders.

“Adequate Protection Obligations” shall have the meaning assigned to such term in the DIP Order.

“Adequate Protection Superpriority Claims” shall have the meaning assigned to such term in the DIP Order.

“Affected Financial Institution” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“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, the Collateral Agent and the Escrow Agent.

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

“Agreement” means this Senior Secured Superpriority Debtor-in-Possession Credit Agreement.

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

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Borrowers or any of their Restricted Subsidiaries from time to time concerning or relating to bribery or corruption.

“Applicable Authority” means CME or any Governmental Authority having jurisdiction over the Administrative Agent or CME.

“Applicable Lending Office” means for any Lender, such Lender’s office, branch or affiliate designated for Base Rate Loans and Term SOFR Loans, as applicable, as notified to the Administrative Agent and the Borrowers 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 Borrowers.

“Applicable Rate” means a percentage per annum equal to: with respect to (a) DIP Term Loans, (x) for DIP Term Loans that are Term SOFR Loans, (1) 6.00% of PIK Interest (as defined below) and (2) 1.00% paid in cash (such interest, “Cash Interest”) and (y) for DIP Term Loans that are Base Rate Loans, (1) 5.00% of PIK Interest and (2) 1.00% of Cash Interest and (b) Roll-Up Loans, (x) for Roll-Up Loans that are Term SOFR Loans, (1) 6.00% of PIK Interest and (2) 1.00% of Cash Interest and (y) for Roll-Up Loans that are Base Rate Loans, (1) 5.00% of PIK Interest and (2) 1.00% of Cash Interest. As used herein, “PIK Interest” means interest paid in kind and not in cash, by adding the amount of such interest to the principal amount of the outstanding DIP Term Loans or Roll-Up Loans on each applicable Interest Payment Date, which shall thereafter constitute DIP Term Loans or Roll-Up Loans, as applicable, and Obligations for all purposes of this Agreement and the other Loan Documents and accrue interest in accordance with Section 2.08.

“Appropriate Lender” means, at any time, with respect to Loans of any Class, the Lenders of such Class.

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

“Approved Budget” means the initial Approved Budget and each Approved Budget delivered pursuant to Section 6.20. The initial Approved Budget is attached hereto as Exhibit V.

“Approved Budget Variance Report” shall mean a report provided by the Borrowers to the Administrative Agent, for prompt further delivery to the Lenders, (a) showing, in each case, on a line item by line item and cumulative basis, the Actual Cash Receipts, the Actual Disbursement Amounts, actual U.S. Bank Cash, Liquidity, and Actual Borrower Professional Fees as of the last day of the prior week, and the Variance Testing Period then most recently ended, noting therein (i) all variances, on a line item by line item basis and a cumulative basis, from the Budgeted Cash Receipts, the Budgeted Disbursement Amounts, budgeted U.S. Bank Cash, Budgeted Liquidity and Budgeted Borrower Professional Fees for such period as set forth in the Approved Budget as in effect for such period and (ii) containing an indication as to whether each variance is temporary or permanent and analysis and explanations for all material variances, (iii) certifying compliance or non-compliance with such maximum variances set forth herein, and (iv) including explanations for all material variances and violations, if any, of such covenant and if any such violation exists, setting forth the actions which the Borrowers has taken or intends to take with respect thereto, and (b) which such reports shall be certified by a Responsible Officer of the Borrowers and shall be in a form, and shall contain supporting information, satisfactory to the Required Lenders in their sole discretion (it being acknowledged and agreed that the form of the variance report provided by the Borrowers to the Lenders prior to the Closing Date shall be deemed satisfactory).

“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.

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

“Attorney Costs” means and includes all reasonable and documented or invoiced out-of-pocket fees, expenses and disbursements of any specified law firm or other specified external legal counsel.

“Audited Financial Statements” means audited consolidated balance sheets of Vyaire Medical, Inc. and its consolidated subsidiaries for the fiscal year ended September 30, 2023 and the related audited statements of income and cash flows of Vyaire Medical, Inc. and its consolidated subsidiaries for the fiscal year ended September 30, 2023.

“Backstop Fee” has the meaning assigned in Section 2.09(c).

“Backstop Party” means the entities together with their respected successors and permitted assigns or any fronting lender or other funding agent operating on their behalf listed on Schedule 2.09.

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“Bail-In Legislation” means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European

Union, the implementing law, rule, regulation or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“Bankruptcy Code” means Title 11 of the United State Code, as amended, or any similar federal or state law for the relief of debtors.

“Bankruptcy Court” has the meaning specified in the recitals to this Agreement.

“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) $\frac{1}{2}$ of 1% per annum above the Federal Funds Rate in effect on such day; and
- (c) Term SOFR plus 1%.

Any change in such rate due to a change in the Prime Rate, the Federal Funds Rate, or Term SOFR shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Rate, or Term SOFR, as the case may be.

Notwithstanding any provision to the contrary in this Agreement, the applicable Base Rate (i) in respect of Term Loans shall at no time be less than 2.00% per annum and (ii) shall not be less than zero.

“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).

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“BHC Act Affiliate” has the meaning specified in Section 10.25.

“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 Representative” has the meaning specified in Section 10.22(i).

“Borrowers” has the meaning specified in the introductory paragraph to this Agreement; provided that term may also refer to either the U.S. Borrower or the Dutch Borrower individually, as the context may require.

“Borrowing” means the Incurrence of one Class and Type of Term Loans on the Closing Date (or resulting from conversions on a given date after the Closing Date) having, in the case of Term SOFR Loans, the same Interest Period.

“Budgeted Borrower Professional Fees” shall mean with respect to any period, the amount of restructuring and professional fees for such period that are set forth under the headings “Professional Fees” in the Approved Budget, as then in effect.

“Budgeted Cash Receipts” means with respect to any period, as the context requires, (x) the line item under the heading “Total Operating Receipts” in the Approved Budget and/or (y) the sum, for such period, of all the amounts for all such line items which comprise “Total Operating Receipts” (as set forth in the Approved Budget), on a cumulative basis, in each case, as determined by reference to the Approved Budget as then in effect.

“Budgeted Disbursement Amounts” means with respect to any period, as the context requires, the sum of all such line items under the headings “Total Operating Disbursements”, “Total Non-Operating Receipts/(Disbursements)” and “Total Restructuring Receipts/(Disbursements)” (as set forth in the Approved Budget), as determined by reference to the Approved Budget as then in effect.

“Budgeted Liquidity” shall mean as of any date of determination, as the context requires, for the Loan Parties, the amount set forth as of such date as Liquidity, in each case as determined by reference to the Approved Budget as then in effect.

“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 with respect to Obligations denominated in Dollars and, if such day relates to any interest rate settings as to Term SOFR, any fundings, disbursements, settlements in respect of any such Term SOFR, or any other dealings to be carried out pursuant to this Agreement in respect of any such Term SOFR, Business Day means any such day which is a U.S. Government Securities Business Day.

“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 to such term in the DIP Order.

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

- (1) (i) Dollars and (ii) 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 24 months or less from the date of acquisition;

(3) certificates of deposit, bankers' acceptances, time deposits and eurocurrency time deposits with maturities of two years or less from the date of acquisition, with any United States or foreign commercial bank having capital and surplus of not less than \$100,000,000;

(4) repurchase agreements for underlying securities of the types described in clauses (2), (3) and (7) of this definition entered into with any financial institution meeting the qualifications specified in clause (3) above;

(5) 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 24 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 Borrowers), with maturities of 24 months or less from the date of acquisition;

(6) 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 Borrowers) or (b) having assets in excess of \$1,000,000,000;

(7) 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 Borrowers);

(8) readily marketable direct obligations issued by any foreign government or any political subdivision or public instrumentality thereof, in each case having an Investment Grade Rating from Moody's or S&P with maturities of 24 months or less from the date of acquisition (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 Borrowers);

(9) Investments with average maturities of 24 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 Borrowers);

(10) 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;

(11) in the case of investments by any Foreign Subsidiary or investments made in a country outside the United States of America, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (1) through (10) 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.

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

“Cash Management Order” has the meaning assigned to such term in the DIP Order.

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

“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, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

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

(a) (i) at any time prior to a Qualifying IPO, the Permitted Holders shall at any time cease, directly or indirectly, to have the power to vote or direct the voting of Equity Interests having at least a majority of the ordinary voting power for the election of directors of Holdings and/or (ii) at any time on and after a Qualifying IPO, 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;

(b) at any time prior to a Qualifying IPO of the U.S. Borrower, the U.S. Borrower ceasing to be a direct Wholly-Owned Subsidiary of Holdings;

(c) the Dutch Borrower ceasing to be a direct Wholly-Owned Subsidiary of the U.S. Borrower;

(d) the occurrence of a “Change of Control” (or similar event, however denominated), as defined in the Second Lien Credit Agreement, the Existing Credit Agreement or the Note Purchase Agreement;

provided that, at any time when at least a majority of the outstanding Voting Stock of Holdings is directly or indirectly owned by a Parent Entity, all references in clause (a) 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.

“Chapter 11 Cases” has the meaning specified in the recitals to this Agreement.

“Class,” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are DIP Term Loans or Roll-Up Loans, and, when used in reference to any Commitment, refers to whether such Commitment is a DIP Term Commitment, and when used in reference to any Lender, refers to whether such Lender has a Loan or Commitment of such Class.

“CME” means CME Group Benchmark Administration Limited.

“Closing Date” means June [], 2024.

“Closing Date Roll-Up Lenders” shall have the meaning set forth in Section 2.05(e)(i).

“Closing Date Roll-Up Loans” shall have the meaning set forth in Section 2.05(e)(i).

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

“Collateral” means all the “Collateral” (or similar term) as defined in any Collateral Document and any other asset in which a Lien is (or purported to be) granted pursuant to any Collateral Document.

“Collateral Agent” means WSFS, 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 (in each case subject to exceptions and limitations otherwise set forth in this Agreement and the DIP Order) that:

(a) on the Closing Date, the Collateral Agent shall have received from each of the Borrowers, each Subsidiary Loan Party and Holdings, a counterpart of the Guarantee Agreement, in each case duly executed and delivered on behalf of such person;

(b) the Obligations shall have been secured by a perfected security interest in the Collateral with the priority required by the DIP Order (subject in all respects to the Carve-Out) through the provisions of the DIP Order, to the extent such security interest may be perfected by virtue of the DIP Order or by filings of Uniform Commercial Code financing statements or any other method of perfection referred to in this definition; and

(c) in the case of any person that becomes a Loan Party after the Closing Date, the Collateral Agent shall have received supplements to the Guarantee Agreement and any other documents reasonably requested by the Administrative Agent or the Required Lenders, in the form specified therefor or otherwise reasonably acceptable to the Administrative Agent, in each case, duly executed and delivered on behalf of such Loan Party, that will provide a perfected security interest in the Collateral with the priority required by the DIP Order (subject in all respects to the Carve-Out).

provided, however, that the foregoing definition shall not require, and the Loan Documents shall not contain any requirements as to, the creation or perfection of pledges of, security interests in, mortgages on, or the obtaining of title insurance, surveys, abstracts or appraisals or taking other actions with respect to, any Excluded Assets.

“Collateral Documents” means, collectively, the DIP Order and each of the other agreements, instruments or documents that may be entered into that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties (or any of them).

“Commitment” means, with respect to each Lender (to the extent applicable), such Lender’s DIP Term Commitment.

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

“Committed Loan Notice” means a notice of (a) a Term Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Contract Rate Loans, pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit A or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of a Borrower.

“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(d)(ii).

“Conforming Changes” means, with respect to the use, administration of any proposed Successor Rate for Term SOFR, any conforming changes to the definition of “Base Rate”, “SOFR”, “Term SOFR”, “Daily Simple SOFR” and “Interest Period”, timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definition of “Business Day”, “U.S. Government Securities Business Day”, timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be appropriate, in the discretion of the Administrative Agent, to reflect the adoption and implementation of such applicable rate(s).

“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.

“Contract Rate Loans” means any Term SOFR Loan.

“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.

“Daily Simple SOFR” with respect to any applicable determination date means the SOFR published on such date on the Federal Reserve Bank of New York’s website (or any successor source).

“Daily Simple SOFR Loan” means a Loan that bears interest at a rate based on the definition of “Daily Simple SOFR.”

“Debt Incurrence Prepayment Event” means any Incurrence by the U.S. Borrower or any of the Restricted Subsidiaries of any Indebtedness, but excluding any Indebtedness permitted to be Incurred under Section 7.03.

“Debtor” has the meaning specified in the recitals to this Agreement.

“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.

“Declined Proceeds” has the meaning specified in Section 2.05(b)(v).

“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 Contract 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.

“Default Right” has the meaning specified in Section 10.25.

“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 Order” means the Interim Order and the Final Order.

“DIP Term Commitment” means, as to each DIP Term Lender, its obligation to make a DIP Term Loan to the Borrowers pursuant to Section 2.01(a) in an aggregate principal amount not to exceed the amount set forth opposite such Lender’s name on Schedule 2.01(a) under the caption “DIP Term Commitment” or in the Assignment and Assumption pursuant to which such DIP Term Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement.

“DIP Term Lender” means, at any time, any Lender that has a DIP Term Commitment or a DIP Term Loan at such time.

“DIP Term Loan” has the meaning specified in the recitals to this Agreement.

“Direction of the Required Lenders” means a written direction or instruction from Lenders constituting the Required Lenders which may be in the form of an email or other form of written communication and which may come from any Lender Advisor. Any such email or other communication from a Lender Advisor shall be conclusively presumed to have been authorized by a written direction or instruction from the Required Lenders and such Lender Advisor shall be conclusively presumed to have acted on behalf of and at the written direction or instruction from the Required Lenders (and the Agents and the Borrowers shall be entitled to rely on such presumption). For the avoidance of doubt, with respect to each reference herein to (i) documents, agreements or other matters being “satisfactory,” “acceptable,” “reasonably satisfactory” or “reasonably acceptable” (or any expression of similar import) to the Required Lenders, such determination may be communicated by a Direction of the Required Lenders as contemplated above and/or (ii) any matter requiring the consent or approval of, or a determination by, the Required Lenders, such consent, approval or determination may be communicated by a Direction of the Required Lenders as contemplated above. The Agents and the Borrowers shall be entitled to rely upon, and shall not incur any liability for relying upon, any purported Direction of the Required Lenders, and the Agents and the Borrowers shall not have any responsibility to independently determine whether such direction has in fact been authorized by the Required Lenders.

“Disposition” or “Dispose” means the sale, assignment, transfer, license, lease or other disposition (including any Sale Leaseback and any sale (or issuance to any Person not an Affiliate of either Borrower) 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 (other than contingent indemnification obligations and other contingent obligations that are not then due and payable) that are accrued and payable and the termination of the Commitments),
- (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 Latest Maturity Date, or
- (d) 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 Latest 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 U.S. 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 U.S. Borrower or any of its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

“Disqualified Lenders” means (i) such Persons that have been specified in writing to the Administrative Agent prior to [], 2024 as being “Disqualified Lenders,” (ii) those Persons who are competitors of the U.S. Borrower or its Subsidiaries that are separately identified in writing by either Borrower from time to time and (iii) in the case of each of clauses (i) and (ii), any of their Affiliates (which, for the avoidance of doubt, shall not include any bona fide debt investment funds that are affiliates of the persons referenced in clause (ii) above) that are either (a) identified in writing by either Borrower from time to time or (b) readily identifiable on the basis of such Affiliates name; provided that (i) no permitted supplement or modification to the list of Disqualified Lenders shall apply retroactively to disqualify any persons that have previously acquired an assignment or participation in the Loans or Commitments and (ii) if the Borrowers have consented to an assignment to a Disqualified Lender, in which case such entity will not be considered a Disqualified Lender for the purpose of such assignment. The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Lender or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Lender.

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

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

“Dollar Equivalent” means, at any time, with respect to any amount denominated in Dollars, such amount.

“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.

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

“EEA Financial Institution” shall mean (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” shall mean any of the member states of the European Union, Iceland, Liechtenstein, Norway and the United Kingdom.

“EEA Resolution Authority” shall mean any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

“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).

“Environment” means ambient air, indoor air, surface water, groundwater, drinking water, land surface, sediments, and subsurface strata & natural resources such as wetlands, flora and fauna.

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

“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; (c) 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 Code with respect to any Pension Plan; (d) a failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, whether or not waived, 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, or a failure to make any required contribution to a Multiemployer Plan; (e) 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 within the meaning of Title IV of ERISA or that is in endangered or critical status, within the meaning of Section 305 of ERISA; (f) 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; (g) 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; (h) the imposition of any liability under Title IV of ERISA, but excluding PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any ERISA Affiliate or the imposition of a lien under Section 412 or 430(k) of the 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; (i) 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 (j) 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.

“Erroneous Payment” shall have the meaning provided in Section 9.18(a).

9.18(d). “Erroneous Payment Deficiency Assignment” shall have the meaning provided in Section

9.18(d). “Erroneous Payment Impacted Class” shall have the meaning provided in Section

9.18(d). “Erroneous Payment Return Deficiency” shall have the meaning provided in Section

9.18(d). “Erroneous Payment Subrogation Rights” shall have the meaning provided in Section

“Escrow Agent” means the Escrow Agent under the Escrow Agreement, which shall initially be Wilmington Savings Fund Society, FSB.

“Escrow Agreement” means an Escrow Agreement, dated as of the Closing Date (as amended, restated, supplemented or otherwise modified from time to time), among the Borrowers, the Escrow Agent and the Administrative Agent for and on behalf of the Lenders relating to the Loan Proceeds Account.

“Euro” or “€” means the single currency of the European Union as constituted by the Treaty on European Union and as referred to in the EMU Legislation.

“EU Bail-In Legislation Schedule” shall mean the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“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 Borrowers, 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” means all licenses and any other property and assets (including any lease, license, permit or agreement) (i) to the extent that the Collateral Agent may not validly possess a security interest therein under, or such security interest is restricted by, (x) applicable laws (including, without limitation, rules and regulations of any Governmental Authority or agency) or (y) by contract, lease, license or other agreement with a counterparty that is not a Debtor or an affiliate thereof and that exists on the Closing Date or (ii) the pledge or creation of a security interest in which would require the consent, approval, license or authorization of (x) a Governmental Authority or (y) a third party that is not

a Debtor or an affiliate thereof, which third party right to consent, approve or authorize such a pledge or creation of a security interest exists on the Closing Date and, in each case of clause (i) and (ii), other than to the extent such prohibition or limitation is rendered ineffective under the UCC, the U.S. Bankruptcy Code, other applicable insolvency laws or other applicable law notwithstanding such prohibition or limitation; provided, however, that Excluded Assets shall not include any proceeds, substitutions, replacements, economic interest and economic value unless such proceeds, substitutions, replacements economic interest and economic value constitute Excluded Assets in accordance with clause (i) or (ii) above.

“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 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 or Dutch withholding Taxes in either case 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 applicable Commitment (or, to the extent such Lender did not fund an applicable Loan pursuant to a prior Commitment, on the date on which such Lender acquires its interest in such Loan) (other than pursuant to an assignment requested by the Borrowers 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 such applicable interest in such Loan or Commitment or to such Lender immediately before it changed its Applicable Lending Office, (c) Taxes attributable to such Agent’s or such Lender’s failure to comply with Section 3.01(f) and (d) any withholding Taxes imposed under FATCA. For purposes of clause (b) of this definition, a Lender that acquires a participation pursuant to Section 2.13 shall be treated as having acquired such participation on the earlier date(s) on which such Lender acquired the applicable interest(s) in the Commitment(s) or Loan(s) (as applicable) to which such participation relates.

“Existing Roll-Up Lenders” shall have the meaning set forth in Section 2.05(e)(iii).

“Exit Fee” has the meaning assigned in Section 2.09(d).

“Facility” means any of the DIP Term Facility or the Roll-Up Facility, as applicable.

“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 Borrowers.

“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, as of the date hereof (or any amended or successor version described above), and any intergovernmental agreement, treaty or convention among Governmental Authorities (and any related legislation, rules or practices) implementing any of 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, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds 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%) charged to WSFS on such day on such transactions as determined by the Administrative Agent (acting at the Direction of the Required Lenders).

“Final Order” means the order entered by the Bankruptcy Court approving the DIP Facility on a final basis, in form and substance satisfactory to the Required Lenders, as the same may be amended, modified or supplemented from time to time with the express written joinder or consent of the Required Lenders.

“First Testing Period” means the period commencing [June 10, 2024] and ending on [June 21, 2024].

“Fitch” means Fitch Ratings Ltd, or any successor 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 or 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 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 (other than any plan, program, policy, arrangement or agreement sponsored or maintained exclusively by a Governmental Authority).

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

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

“Fronting Fee Letter” means that certain Fee Letter dated as of the Closing Date between the Borrowers and the Fronting Lender.

“Fronting Lender” means Jefferies Capital Services, LLC.

“FSHCO” means any Subsidiary (other than, for the avoidance of doubt, the Dutch Borrower) that owns no material assets other than Equity Interests and/or indebtedness of one or more Foreign Subsidiaries that are CFCs or other FSHCOs.

“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.

“GAAP” means generally accepted accounting principles in the United States of America, as in effect from time to time; provided that if either Borrower notifies the Administrative Agent that such 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, 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 December 31, 2017 (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 (including supra-national bodies).

“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” of or by any person (the “guarantor”) shall mean (a) any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor,

direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (iv) entered into for the purpose of assuring in any other manner the holders of such Indebtedness or other obligation of the payment thereof or to protect such holders against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of the guarantor securing any Indebtedness or other obligation (or any existing right, contingent or otherwise, of the holder of Indebtedness or other obligation to be secured by such a Lien) of any other person, whether or not such Indebtedness or other obligation is assumed by the guarantor; provided, however, that the term “Guarantee” shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or Disposition of assets permitted by this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such person in good faith.

“Guarantors” shall mean the Loan Parties other than the Borrower.

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

“Hazardous Materials” means all materials, chemicals, substances or wastes regulated pursuant to any Environmental Law, including petroleum or petroleum distillates, friable asbestos or friable asbestos containing materials and polychlorinated biphenyls.

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

“HMT” has the meaning specified in provided in the definition of the term “Sanctions”.

“Holdings” shall have the meaning specified in the introductory paragraph to this Agreement.

“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 Restricted Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Restricted 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 to the extent they would appear as a net liability pursuant to GAAP on the U.S. Borrower’s balance sheet;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable, liabilities or accrued expenses in the ordinary course of business and (ii) any earnout obligation until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and if not paid after becoming due and payable);

(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 any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value of such Swap Contract as of such date. 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.

“Interest Payment Date” means as to any Loan, including SOFR Loans and Base Rate Loans, the last day of each Interest Period and the Maturity Date of the Facility under which such Loan was made.

“Interest Period” means, as to (a) any Cash Interest accruing on any Loan, including interest accruing at a rate equal to the Term SOFR or the Base Rate, as applicable, the period commencing on the date such Loan is advanced, disbursed or converted to or continued as a Term SOFR Loan and ending on the date six months thereafter and (b) any PIK Interest accruing on any Loan, the period commencing on the date such Loan is advanced, disbursed or converted to or continued as a Term SOFR Loan and ending on the date one month thereafter; provided that:

(i) 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, in the case of a Contract Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period pertaining to a Contract Rate Loan 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

(iii) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made.

“Interim Order” means the order entered by the Bankruptcy Court approving the DIP Facility on an interim basis, in form and substance satisfactory to the Required Lenders, as the same may be amended, modified or supplemented from time to time with the express written joinder or consent of the Required Lenders.

“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 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 Responsible Officer, (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, and (iv) any Investment (other than any Investment referred to in clause (i), (ii) or (iii) above) by the specified Person in the form of a purchase or other acquisition for value of any Equity Interests, evidences of Indebtedness or other securities of any other Person shall be the original cost of such Investment), 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 Responsible 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.

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

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

“Junior Debt” means Subordinated Debt, unsecured Indebtedness for borrowed money or other Indebtedness secured by a Lien on the Collateral that is junior in lien priority to the Lien securing the Obligations.

“Junior Debt Documents” means any agreement, indenture and instrument pursuant to which any Junior Debt is issued, in each case as amended to the extent permitted under the Loan Documents.

“Latest Maturity Date” means, with respect to the Incurrence of any Indebtedness, the latest Maturity Date applicable to any Facility that is outstanding hereunder as determined on the date such Indebtedness is Incurred.

“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.

“Lender” means (a) the Persons listed on Schedule 2.01(a), Schedule 2.01(b) and Schedule 2.01(c), (b) any other Person that shall become a party hereto as a “lender” pursuant to Section 10.04 and (c) each Person that becomes a party hereto as a “lender” pursuant to the terms of Section 2.14, in each case other than a Person who ceases to hold any outstanding Loans or any Commitment.

“Lender Advisors” shall mean (x) Gibson, Dunn & Crutcher LLP, as legal counsel, and (y) Rothschild & Co US Inc., as financial advisor.

“Lender Default” means (i) a Distressed Person has admitted in writing that it is insolvent or such Distressed Person becomes subject to a Lender-Related Distress Event or (ii) a Lender has, or has a direct or indirect parent company that has, become the subject of a Bail-In Action.

“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” shall mean, as of any date, an amount equal to the aggregate amount of (x) proceeds of the DIP Term Loans deposited into the Loan Proceeds Account but not yet released to the Borrowers plus (y) cash and Cash Equivalents of the Borrowers and the Guarantors as of such date, but excluding any such cash and Cash Equivalents that (i) would be listed as “restricted” on a balance sheet of the Borrowers or the applicable Guarantors as of such date or (ii) constitute Net Cash Proceeds required to be applied to prepay the Term Loans.

“Loan” means any Term Loan made by any Lender hereunder.

“Loan Documents” means, collectively, (i) this Agreement, (ii) the Notes, (iii) the Escrow Agreement, (iv) the Guaranty, (v) the DIP Order and (vi) and any other document related to this Agreement designated in writing by the U.S. Borrower and the Administrative Agent as a “Loan Document.”

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

“Loan Proceeds Account” means an escrow account with the Escrow Agent into which the proceeds of the DIP Term Loans shall be deposited and retained subject to withdrawal thereof by the Borrowers pursuant to a Withdrawal Notice in accordance with Section 4.02 and the Escrow Agreement.

“Losses” has the meaning specified in Section 10.05.

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

“Master Agreement” has the meaning specified in the definition of “Swap Contract.”

“Material Adverse Effect” means a circumstance or condition that would materially and adversely affect (a) the business or financial condition of the U.S. Borrower and its Restricted Subsidiaries, taken as a whole, (b) the ability of the U.S. 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.

“Maturity Date” means the earliest to occur of (i) the consummation of a sale or the Disposition of all or substantially all of Holdings’, the Borrowers’ and each of their Subsidiaries’ assets; (ii) a Change of Control; (iii) [], 2024;¹ (iv) the date on which all Loans are accelerated and all unfunded Commitments (if any) have been terminated in accordance with this Agreement, by operation of law or otherwise; (v) the date the Bankruptcy Court orders a conversion of the Chapter 11 Cases to a chapter 7 liquidation or the dismissal of the Chapter 11 Case of any Debtor; (vi) the closing of any sale of assets pursuant to Section 363 of the U.S. Bankruptcy Code, which when taken together with all other sales of assets since the Closing Date, constitutes a sale of all or substantially all of the assets of the Loan Parties; (vii) the Plan Consummation Date; (viii) the first Business Day after the date on which the Interim Order expires by its terms or is terminated, unless the Final Order has been entered and becomes effective prior thereto; and (ix) the date that the Final Order is vacated, terminated, rescinded, revoked, declared null and void or otherwise ceases to be in full force and effect (unless consented to by the Required Lenders).

“Material Property” means assets, including intellectual property, owned by the Borrowers or their Subsidiaries that is material to the business, operations, assets, financial condition or prospects of the Borrowers and their Subsidiaries, taken as a whole.

“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.

“Net Cash Proceeds” means:

(a) with respect to the Disposition of any asset by the U.S. Borrower or any Restricted Subsidiary or any Casualty Event, the excess, if any, of (i) the sum of cash and Cash Equivalents received by or on behalf of the U.S. Borrower and its Restricted Subsidiaries in connection with such Disposition or Casualty Event (including any cash or Cash Equivalents received by way of deferred payment (but excluding any interest payments) pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and, with respect to any Casualty Event, any insurance proceeds or condemnation awards in respect of such Casualty Event actually received by or paid to or for the account of the U.S. Borrower or any Restricted Subsidiary) over (ii) the sum of (A) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness that is secured by the asset subject to such Disposition or Casualty Event and that is required to be repaid (and is actually repaid) in connection with such Disposition or Casualty Event under the existing terms of the documentation thereof (other than Indebtedness under the Loan Documents and the Second Lien Loan Documents, the Existing Notes, the Existing Term Loans and any other prepetition Indebtedness), (B) the out-of-pocket fees and expenses (including attorneys’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees) actually incurred by Holdings, the U.S. Borrower or such Restricted Subsidiary in connection with such Disposition or Casualty Event, (C) taxes paid or reasonably estimated to be actually payable in connection therewith and the amount of any

¹ To be 120 days following the Closing Date.

reserves established by Holdings, the U.S. Borrower and the Restricted Subsidiaries to fund contingent liabilities reasonably estimated to be payable, that are directly attributable to such event, (D) [reserved], and (E) any reserve for adjustment in respect of (x) the sale price of such asset or assets established in accordance with GAAP and (y) any liabilities associated with such asset or assets and retained by the U.S. Borrower or any Restricted Subsidiary after such sale or other Disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or with respect to any indemnification obligations associated with such transaction; it being understood that “Net Cash Proceeds” shall include (i) any cash or Cash Equivalents received upon the Disposition of any non-cash consideration by the U.S. Borrower or any Restricted Subsidiary in any such Disposition and (ii) upon the reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in clause (E) above or if such liabilities have not been satisfied in cash and such reserve is not reversed within 365 days after such Disposition or Casualty Event, the amount of such reserve; and

(b) with respect to the Incurrence of any Indebtedness by the U.S. Borrower or any Restricted Subsidiary or any sale or issuance of Qualified Equity Interests by either Borrower, the excess, if any, of (A) the sum of the cash and Cash Equivalents received by or on behalf of the U.S. Borrower and its Restricted Subsidiaries in connection with such Incurrence, issuance or sale over (B) the investment banking fees, discounts, issuance costs, commissions, costs and other out-of-pocket expenses and other customary expenses (and, in the case of the Incurrence of any Indebtedness the proceeds of which are required to be used to prepay any Class of Loans and/or reduce any Class of Commitments hereunder, accrued interest and premium, if any, on such Loans and any other amounts (other than principal) required to be paid in respect of such Loans and/or Commitments in connection with any such prepayment and/or reduction), incurred by the U.S. Borrower or such Restricted Subsidiary in connection with such Incurrence, issuance or sale.

“Non-Consenting Lender” has the meaning specified in Section 3.07(d).

“Non-Loan Party” means any Restricted Subsidiary of the U.S. Borrower that is not a Loan Party.

“Non-Loan Party Disposition” has the meaning specified in Section 2.05(b)(vi).

“Note” means a Term Note.

“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, 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, expenses and other amounts 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, expenses and other amounts are allowed claims in such proceeding, including all interest, fees, expenses and other amounts that accrue after commencement by or against any Loan Party of any proceeding under Debtor Relief Laws, regardless of whether such interest, fees and expenses are allowed claims in such proceeding, with respect to such Loan Party. 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, 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.

“Organizational 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 Relevant Rate Successor Rate” has the meaning specified in Section 3.03.

“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 Borrowers under Section 3.07).

“Outstanding Amount” means with respect to the Term Loans, the Dollar Equivalent amount of the outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Term Loans.

“Paid in Kind” as used with respect to payment of any accrued interest on any Term Loan, or the payment of any fee or any other amount hereunder that is expressly specified as being required to or permitted to be Paid in Kind (or payable in kind, capitalized or similar) (including PIK Interest) (the applicable interest, fee or other amount, the “Reference Obligation”), means that such Reference Obligation shall (automatically, by operation of the terms hereof, without the requirement for any Person to take any action or cause anything to be done in order to effectuate such payment), be deemed paid at 12:01 a.m. (New York City time) on the due date therefor, by deeming the equivalent Dollar amount of such Reference Obligation (calculated in accordance with Section 2.08, as applicable, and as otherwise provided in this Agreement) to be automatically capitalized as an equivalent principal amount of the Term Loans due in respect of (as determined in accordance with this Agreement), and, accordingly, such amount shall be compounded onto, and added to the aggregate principal amount of the Term Loans outstanding immediately prior to such payment, such that, immediately after giving effect to the payment of the applicable Reference Obligation as described herein, the aggregate outstanding principal amount of the Term Loans shall include the amount of such Reference Obligation. For the avoidance of doubt, without limiting the foregoing, (i) with respect to any Reference Obligation owing with respect to any Term Loans, once such Reference Obligation has been Paid in Kind in accordance with the foregoing, the amount of such Reference Obligation shall constitute, for all purposes hereunder, Term Loans incurred as of such time, which shall thereupon accrue interest in accordance with Section

2.08 and (ii) the aggregate principal amount of Term Loans outstanding as of any time shall be calculated to include (without duplication) (x) the original principal amount thereof, (y) the aggregate amount of PIK Interest through the time of determination, and (z) any other amounts previously Paid in Kind hereunder.

“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 Borrowers, as applicable.

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

“Payment Recipient” shall have the meaning provided in Section 9.18(a).

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

“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 specified in the recitals to this Agreement.

“Plan Consummation Date” shall mean the date of the substantial consummation (as defined in Section 1101 of the U.S. Bankruptcy Code) of a chapter 11 plan, which, for purposes of this Agreement, shall be no later than the effective date of a chapter 11 plan that is confirmed pursuant to an order of the Bankruptcy Court.

“Prepetition Agent” has the meaning specified in the recitals to this Agreement.

“Prepetition Credit Agreement” has the meaning specified in the recitals to this Agreement.

“Prepetition Lender” has the meaning specified in the recitals to this Agreement.

“Prepetition Term Loans” has the meaning specified in the recitals to this Agreement.

“Prime Rate” means the rate of interest per annum announced from time to time by WSFS (or any successor to WSFS in its capacity as Administrative Agent) as its “prime rate”. 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 (or Loans, in the case of Term Loans) of such Lender under the applicable Facility or Facilities at such time and the denominator of which is the amount of the Aggregate Commitments (or aggregate Loans, in the case of Term Loans) under the applicable Facility or Facilities at such time.

“PTE” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

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

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

“Qualifying IPO” means the initial underwritten public offering (other than a public offering pursuant to a registration statement on Form S-8).

“QFC” has the meaning specified in Section 10.25.

“QFC Credit Support” has the meaning specified in Section 10.25.

“RDX Assets” means the Vyaire business unit and assets associated with the manufacture and sale of medical devices for pulmonary function testing and associated software, services and consumables.

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

“Rejection Notice” has the meaning specified in Section 2.05(b)(v).

“Related Fund” means, in relation to a fund or account (the “first fund”), (a) a fund or account which is managed or advised by the same investment manager or investment adviser as the first fund or account or, if it is managed or advised by a different investment manager or investment adviser, (b) a fund or account whose investment manager or investment adviser is an affiliate of the investment manager or investment adviser of the first fund or account or (c) that investment manager or investment adviser itself.

“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 within or through any building, structure, facility or fixture, subject in each case, to human occupation) of any Hazardous Materials.

“Relevant Rate” shall mean, with respect to any Credit Extension denominated in Dollars, Term SOFR.

“Remaining Prepetition Loans” shall have the meaning set forth in Section 2.05(e)(i).

“Reportable Event” means, with respect to any Pension 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.

“Request for Credit Extension” means with respect to a Borrowing, conversion or continuation of Term Loans, a Committed Loan Notice.

“Required Lenders” means, as of any date of determination, at least three unaffiliated Lenders having (a) DIP Term Loans outstanding and (b) unused DIP Term Loan Commitments that, taken together, represent more than 50% of the sum of (x) all DIP Term Loans outstanding and (y) all unused DIP Term Loan Commitments at such time; provided, that, at any time that no DIP Term Loans or DIP Term Loan Commitments are outstanding, Required Lenders shall mean, at any time, Lenders having Roll-Up Loans that, taken together, represent more than 50% of the sum of all Roll-Up Loans at such time provided, further, that the unused DIP Term Loan Commitments, and the portion of the DIP Term Loans or Roll-Up Loans outstanding, as applicable, held or deemed held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders, as of any date of determination.

“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Responsible Officer” means the chief executive officer, president, vice president, chief financial officer, director, treasurer or assistant treasurer or other similar officer or authorized signatory of a Loan Party and, as to any document delivered on the Closing Date, any secretary, assistant secretary or authorized signatory 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 either Borrower, U.S. 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 either Borrower, U.S. Borrower, Holdings or any Parent Entity.

“Restricted Subsidiary” means any Subsidiary of the U.S. Borrower. For the avoidance of doubt, as of the Closing Date, no “Unrestricted Subsidiary” shall exist and, on and after the Closing Date, no Subsidiary shall be designated as an “Unrestricted Subsidiary” without the consent of each Lender adversely affected thereby.

“Retained Declined Proceeds” has the meaning specified in Section 2.05(b)(v).

“Roll-Up Amount” shall have the meaning set forth in Section 2.05(e)(ii).

“Roll-Up Loans” has the meaning assigned in the recitals of this Agreement.

“RSA” means that certain Restructuring Support Agreement, dated as of [], 2024 (as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time) between the Company Parties and the Consenting Stakeholders (each as defined therein).

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

“Sanctions” shall mean any sanctions administered or enforced by the government of the United States (including without limitation, OFAC and the U.S. Department of State), the United Nations

Security Council, the European Union (or its member states), Her Majesty's Treasury ("HMT") or other relevant sanctions authority.

"Scheduled Unavailability Date" has the meaning specified in Section 3.03(b).

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

"Second Lien Administrative Agent" has the meaning assigned to the term "Administrative Agent" in the Second Lien Credit Agreement.

"Second Lien Credit Agreement" means the Credit Agreement, dated as of April 16, 2018, among Holdings, the Borrowers, the lenders party thereto, and the Second Lien Administrative Agent.

"Second Lien Loan Documents" means the Second Lien Credit Agreement and each other Loan Document (as defined in the Second Lien Credit Agreement) executed in connection therewith or pursuant thereto.

"Second Lien Term Facility" has the meaning provided in the recitals of this Agreement.

"Second Lien Loans" has the meaning assigned to the term "Second Lien Loans" in the Second Lien Credit Agreement.

"Section 6.01 Financials" means the financial statements delivered, or required to be delivered, pursuant to Section 6.01(a) or 6.01(b).

"Secured Parties" means, collectively, the Administrative Agent, the Collateral Agent, 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.

"SOFR" means the Secured Overnight Financing Rate as administered by the Federal Reserve Bank of New York (or a successor administrator).

"SOFR Loan" means a Daily Simple SOFR Loan or a Term SOFR Loan, as applicable.

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

"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.

"Spot Rate" for a currency means the rate determined by the Administrative Agent, as applicable, to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Administrative Agent may obtain such spot rate from

another financial institution designated by the Administrative Agent if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

“Subordinated Debt” means Indebtedness for borrowed money incurred by a Loan Party that is subordinated in right of payment to the prior payment of the Obligations of such Loan Party under the Loan Documents.

“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 U.S. Borrower.

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

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

“Swap Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark to market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).

“Syndicate Lender” shall have the meaning set forth in Section 2.05(e)(iii).

“Syndication” has the meaning assigned in Section 2.17.

“Syndication Procedures” has the meaning assigned in Section 2.17.

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

“Term Borrowing” means a borrowing in respect of DIP Term Loans.

“Term Lender” means, at any time, any lender that has a DIP Term Commitment, a DIP Term Loan or a Roll-Up Loan, at such time.

“Term Loan” means a DIP Term Loan or a Roll-Up Loan, as applicable.

“Term Note” means a promissory note of the Borrowers payable to any Term Lender or its registered assigns, in substantially the form of Exhibit C-1, evidencing the aggregate Indebtedness of the Borrowers to such Term Lender resulting from the Term Loans made by such Term Lender.

“Term SOFR” means for any Interest Period with respect to a Term SOFR Loan, the rate per annum equal to the Term SOFR Screen Rate two U.S. Government Securities Business Days prior to the commencement of such Interest Period with a term equivalent to such Interest Period; provided that if the rate is not published prior to 11:00 a.m. on such determination date then Term SOFR means the Term SOFR Screen Rate on the first U.S. Government Securities Business Day immediately prior thereto, in each case; and (ii) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to the Term SOFR Screen Rate with a term of one month commencing that day; provided that if the Term SOFR determined in accordance with either of the foregoing provisions (i) or (ii) of this definition would otherwise be less than 1.00%, Term SOFR shall be deemed 1.00% for purposes of this Agreement.

“Term SOFR Loan” means a Term Loan that bears interest at a rate based Term SOFR.

“Term SOFR Replacement Date” has the meaning specified in Section 3.03(b).

“Term SOFR Screen Rate” means the forward-looking SOFR term rate administered by CME (or any successor administrator satisfactory to the Administrative Agent) and published on the applicable Reuters screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time).

“Term SOFR Successor Rate” has the meaning specified in Section 3.03(b).

“Threshold Amount” means \$2,000,000.

“Total Outstandings” means the aggregate Outstanding Amount of all Loans.

“Transactions” means the entry into the Loan Documents and all transactions related thereto.

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

“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“Unaudited Financial Statements” means the unaudited consolidated balance sheets and related statements of income and cash flows of the U.S. Borrower, for each fiscal quarter ended after the most recent fiscal year covered by the Audited Financial Statements and at least sixty (60) 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.

“Unused Commitment Fee” has the meaning assigned in Section 2.09(b).

“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.

“U.S. Bank Cash” means cash and Cash Equivalents of the Borrowers and Guarantors deposited in commercial banks located in the United States as currently reported in the Approved Budget and in a manner consistent with past practices (excluding amounts held for customers pursuant to the terms of the agreements with such customers and which are excluded from the Approved Budget and related reporting).

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

“U.S. Government Securities Business Day” means any Business Day, except any Business Day on which any of the Securities Industry and Financial Markets Association, the New York Stock Exchange or the Federal Reserve Bank of New York is not open for business because such day is a legal holiday under the federal laws of the United States or the laws of the State of New York, as applicable.

“U.S. Special Resolution Regimes” has the meaning specified in Section 10.25.

“Variance Testing Period” shall mean, as applicable, each of (a) the First Testing Period, and (b) each period commencing the first business day after the end of the prior Variance Testing Period (including the First Testing Period) and ending the second Friday thereafter.

“VAT” means (i) any tax imposed in compliance with the Council Directive of November 28, 2006 on the common system of value added tax (EC Directive 2006/112), and (ii) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, the tax referred to in clause (i) above, or imposed elsewhere.

“Vents Business” means Vyaire business unit and assets associated with the manufacture and sale of medical ventilators, associated services and consumables.

“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 Approved Budget Variance Report” shall mean a report provided by the Borrowers to the Administrative Agent, for prompt further delivery to the Lenders, (a) showing, in each case, on a line item by line item and cumulative basis, the weekly Actual Cash Receipts, the weekly Actual Disbursement Amounts, actual U.S. Bank Cash, Liquidity, and Actual Borrower Professional Fees as of the last day of the prior week then most recently ended, noting therein (i) all variances, on a line item by line item basis and a cumulative basis, from the Budgeted Cash Receipts, the Budgeted Disbursement Amounts, budgeted U.S. Bank Cash, Budgeted Liquidity and Budgeted Borrower Professional Fees for such period as set forth in the Approved Budget as in effect for such period and (ii) containing an indication as to whether each variance is temporary or permanent and analysis and explanations for all material variances, and (b) which such reports shall be in a form, and shall contain supporting information, satisfactory to the Required Lenders in their sole discretion (it being acknowledged and agreed that the form of the variance report provided by the Borrowers to the Lenders prior to the Closing Date shall be deemed satisfactory).

“Withdrawal” means a withdrawal from the Loan Proceeds Account in a maximum amount of \$2,000,000, made in accordance with Section 4.02.

“Withdrawal Date” means the date of the making of any Withdrawal.

“Withdrawal Liability” means the liability to 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.

“Withdrawal Notice” means a notice substantially in the form attached hereto as Exhibit B to be delivered by the Borrowers to the Escrow Agent and the Administrative Agent from time to time to request a Withdrawal from the Loan Proceeds Account.

“Withdrawn Amount” shall have the meaning set forth in Section 2.05(e)(ii).

“Withholding Agent” means any Loan Party and the Administrative Agent and, for U.S. federal income Tax purposes, any other applicable withholding agent.

“Write-Down and Conversion Powers” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

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

(b) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any 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.

(c) 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.”

(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.

(e) Any definition of or reference to any Loan Document, agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein).

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) Where reference is made to “the U.S. Borrower and its Restricted Subsidiaries on a consolidated basis” or similar language, such consolidation shall not include any Subsidiaries of the U.S. Borrower other than Restricted Subsidiaries.

(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 U.S. 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 Organizational 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 the relevant 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 Article 6, Article 7 or Article 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.

(b) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent (acting at the Direction of the Required Lenders) may from time

to time specify with the Borrowers' 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.

(c) Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent (acting at the Direction of the Required Lenders) may from time to time specify with the Borrowers' 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.

(d) [Reserved].

(e) The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to any reference rate referred to herein or with respect to any rate (including, for the avoidance of doubt, the selection of such rate and any related spread or other adjustment) that is an alternative or replacement for or successor to any such rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or the effect of any of the foregoing, or of any Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions or other activities that affect any reference rate referred to herein, or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or any related spread or other adjustments thereto, in each case, in a manner adverse to the Borrowers. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any reference rate referred to herein or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing), in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrowers, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or other action or omission related to or affecting the selection, determination or calculation of any rate (or component thereof) provided by any such information source or service.

Section 1.09. [Reserved].

Section 1.10. [Reserved].

Section 1.11. [Reserved].

Section 1.12. [Reserved].

Section 1.13. Change of Currency.

(a) Each obligation of the Borrowers to make a payment denominated in the national currency unit of any member state of the European Union that adopts the Euro as its lawful currency after the date hereof shall be redenominated into Euro at the time of such adoption. If, in relation to the currency of any such member state, the basis of accrual of interest expressed in this Agreement in respect of that currency shall be inconsistent with any convention or practice in the London interbank market for the basis of accrual of interest in respect of the Euro, such expressed basis shall be replaced by such convention or practice with effect from the date on which such member state adopts the Euro as its lawful currency; provided that if any Borrowing in the currency of such member state is outstanding immediately prior to such date, such replacement shall take effect, with respect to such Borrowing, at the end of the then current Interest Period.

(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 to be appropriate to reflect the adoption of the Euro by any member state of the European Union and any relevant market conventions or practices relating to the Euro.

Each provision of this Agreement also shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect a change in currency of any other country and any relevant market conventions or practices relating to the change in currency.

Section 1.14. Dutch Provisions.

In this Agreement, where it relates to a Dutch entity, a reference to:

(a) “the Netherlands” refers to the part of the Kingdom of the Netherlands located in Europe (and all derivative terms, including “Dutch” shall be construed accordingly);

(b) a “director” means a managing director (*bestuurder*) and “board of directors” means its managing board (*bestuur*);

(c) a necessary action to authorize, where applicable, includes without limitation, any action required to comply with the Works Councils Act of The Netherlands (*Wet op de ondernemingsraden*);

(d) a “winding up”, “administration” or “dissolution” includes a Dutch entity being:

(i) declared bankrupt (*fallies verklaard*);

(ii) being subject to a pre-insolvency plan procedure (*onderhands akkoordprocedure*); or

(iii) dissolved (*ontbonden*);

(e) a “moratorium” includes *surseance van betaling* and a “moratorium is declared” or “occurs” includes *surseance verleend*;

(f) any “step” or “procedure” taken in connection with insolvency proceedings includes a Dutch entity having filed a notice under Article 36(2) of the Tax Collection Act of the Netherlands (*Invorderingswet 1990*);

(g) a “trustee in bankruptcy” or a “liquidator” includes a *curator*;

(h) an “administrator” includes a *bewindvoerder* and a *herstructureringsdeskundige*;

(i) a “receiver” or an “administrative receiver” does not include a *curator* or *bewindvoerder*;

(j) an “attachment” includes a *beslag*;

(k) “financial assistance” includes any act contemplated by Section 2:98c of the Dutch Civil Code;

- (l) “gross negligence” includes *grove schuld*;
- (m) “indemnify” means *vrijwaren*;
- (n) “negligence” includes *schuld*; and
- (o) “wilful misconduct” includes *opzet*.

Section 1.15. Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II

THE COMMITMENTS AND CREDIT EXTENSIONS

Section 2.01. The Loans.

(a) The DIP Term Borrowings. Subject to the terms and conditions set forth herein, each DIP Term Lender severally agrees to make to the Borrowers a single loan denominated in Dollars in a principal amount equal to such DIP Term Lender’s Term Commitment on the Closing Date. Amounts borrowed under this Section 2.01(a) and repaid or prepaid may not be reborrowed. The DIP Term Loans may be Base Rate Loans or Term SOFR Loans, as further provided herein.

- (b) [Reserved]
- (c) [Reserved].
- (d) [Reserved].

(i)

(e) Roll-Up Loans.

(i) On the Closing Date, \$75,000,000.00 in aggregate principal amount of Prepetition Term Loans shall be deemed converted into and exchanged for Roll-Up Loans and shall be deemed funded on the Closing Date without constituting a novation, and shall satisfy and discharge \$75,000,000 in aggregate principal amount of Prepetition Term Loans (the “Closing Date Roll-Up Loans” and, the Prepetition Term Loans that are not Closing Date Roll-Up Loans, the “Remaining Prepetition Loans”). The Closing Date Roll-Up Loans deemed funded on the Closing Date shall be deemed to be made by each Backstop Party (or an investment advisor, manager, or beneficial owner for the account of a Backstop Party, or an affiliated fund or trade counterparty designated by such Backstop Party) (such initial lender holding such Roll-Up Loans, the “Closing Date Roll-Up Lenders”) in an amount equal to the lesser of (x) the aggregate principal amount of the Prepetition Term Loans owing to the applicable Closing Date Roll-Up Lenders on the Closing Date and (y) an amount equal to (I) \$45,000,000 multiplied by (II) the quotient

of the amount set forth next to each Backstop Party's name on Schedule 2.09 hereof divided by the sum of all amounts set forth on Schedule 2.09 hereof.

(ii) Subject to the entry, and the terms, of the Final Order, on each Withdrawal Date, concurrently with and automatically upon the withdrawal from the Loan Proceeds Account and disbursement of such proceeds to the Borrowers on such Withdrawal Date (the aggregate amount of DIP Term Loans funded by any Lender hereunder and so withdrawn and disbursed on any such Withdrawal Date, such Lender's "Withdrawn Amount"), each Lender hereunder (or an investment advisor, manager, or beneficial owner for the account of such Lender, or an affiliated fund or trade counterparty designated by such Lender) (collectively, the "Additional Roll-Up Lenders") shall be deemed to have (x) converted and exchanged an aggregate principal amount of Remaining Prepetition Loans equal to the lesser of (I) such Additional Roll-Up Lenders' Remaining Prepetition Loans on such date and (II) three times the applicable Lender's Withdrawn Amount on such Withdrawal Date (such lesser amount, such Lender's "Roll-Up Amount") for Roll-Up Loans and (y) funded an amount of Roll-Up Loans equal to its Roll-Up Amount on such Withdrawal Date, without constituting a novation, and satisfied and discharged an aggregate principal amount of Rolled-Up Prepetition Loans equal to its Roll-Up Amount.

(iii) On the terms set forth in the Syndication Procedures, upon the completion of the Syndication contemplated by Section 2.17 to the extent necessary to effectuate the results of such Syndication, (1) each Lender hereunder holding Roll-Up Loans on such date ("Existing Roll-Up Lender") shall be deemed to have assigned a portion of its Roll-Up Loans ratably to each other Lender hereunder on such date (each such Lender, a "Syndicate Lender"), and each Syndicate Lender shall be deemed to have assumed an amount of Roll-Up Loans from each Existing Roll-Up Lender and (2) each Syndicate Lender hereunder on such date shall be deemed to have assigned a portion of its Remaining Prepetition Loans to each Existing Roll-Up Lender and each Existing Roll-Up Lender shall be deemed to have assumed a portion of such Remaining Prepetition Loans from each Syndicate Lender, such that each Lender hereunder (including both Existing Roll-Up Lenders and Syndicate Lenders) will hold the amount of Roll-Up Loans as set forth on Schedule 2.17 (as contemplated by Section 2.17 hereof) and the Remaining Prepetition Loans will be reallocated and assigned accordingly.

(f) For the avoidance of doubt, the parties hereto agree that the DIP Term Loans that remain in the Loan Proceeds Account will trade separately from the DIP Term Loans that have been disbursed to the Borrowers and the rights to any subsequent Roll-Up Amount upon Withdrawal of DIP Term Loans in the Loan Proceeds Account will be attributable to and will trade with the DIP Term Loans which are in the Loan Proceeds Account.

(g) For the avoidance of doubt, amounts repaid or prepaid in respect of the DIP Term Loans or Roll-Up Loans may not be reborrowed.

Section 2.02. Borrowings, Conversions and Continuations of Loans.

(a)

(i) Each Term Borrowing of DIP Term Loans, each conversion of DIP Term Loans from one Type to the other, and each continuation of DIP Term Loans that are Contract Rate Loans, as applicable, shall be made upon a Borrower's notice (which shall

be revocable for a Term Borrowing so long as the Borrowers agree to comply with the applicable provisions of Section 3.05 upon any such revocation) to the Administrative Agent, which may be given by telephone or a Committed Loan Notice. Each such notice must be received by the Administrative Agent not later than 1:00 p.m. one (1) Business Day prior to the requested date of any Borrowing or continuation of such Contract Rate Loans denominated in Dollars or any conversion of Base Rate Loans to Contract Rate Loans denominated in Dollars, as applicable. Each telephonic notice by a Borrower pursuant to this Section 2.02(a)(i) 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 such Borrower. Each Borrowing of, conversion to or continuation of DIP Term Loans that are Contract Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Except as provided in Section 2.03(c) and Section 2.04(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof.

(ii) Each Borrowing of, conversion to or continuation of DIP Term Loans that are Contract Rate Loans shall be in a principal amount of \$2,000,000 or a whole multiple of \$2,000,000 in excess thereof. Except as provided in Section 2.03(c) and Section 2.04(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$2,000,000 or a whole multiple of \$2,000,000 in excess thereof.

(iii) Each Committed Loan Notice (whether telephonic or written) shall specify (i) whether such Borrower is requesting a Term Borrowing, a conversion of Loans from one Type to the other, or a continuation of Contract 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. If such 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. For the avoidance of doubt, the Borrowers 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 (and currency) of its Pro Rata Share of the applicable Class of 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). The proceeds of the Term Loans will be disbursed as set forth in Section 2.03.

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

(d) The Administrative Agent shall promptly notify the Borrowers and the Lenders of the interest rate applicable to any Interest Period for Contract Rate Loans upon determination of such

rate. The determination of Term SOFR by the Administrative Agent shall be conclusive in the absence of manifest error.

(e) Anything in subsections (a) to (d) above to the contrary notwithstanding, after giving effect to all Term Borrowings, and all continuations of Term Loans as the same Type, there shall not be more than fifteen (15) Interest Periods in effect for Term Borrowings.

(f) Notwithstanding anything contained in this Agreement to the contrary, Term Loans may only be Base Rate Loans or Term SOFR Loans.

Section 2.03. Funding of Borrowings.(a) The Administrative Agent, following receipt of a Borrowing Request, shall promptly notify each Lender of the applicable amount of DIP Term Loans to be funded. Whereupon, each Lender shall remit to the Administrative Agent its share of such DIP Term Loans, in Same Day Funds not later than 12:00 noon on the Business Day specified in the Borrowing Request to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders most recently designated by it for such purpose by notice to the Lenders. Upon receipt of all requested funds with respect to the DIP Term Loans, the Administrative Agent will promptly (i)(I) remit to Lender Advisors all fees and expenses payable on the date of the funding of the DIP Term Loan, (II) deduct and apply all fees payable to the Administrative Agent on the date of the funding of the DIP Term Loan for its own account and for the account of the Escrow Agent and the Lenders and (III) remit an amount of \$25,000,000 less the amounts in clauses (I) and (II) to the Borrowers and (ii) remit \$20,000,000 to the Loan Proceeds Account. For the avoidance of doubt, all parties agree that all Loans shall be funded and accrue interest starting on the Closing Date, including any Loans the proceeds of which have been deposited into the Loan Proceeds Account. For the avoidance of doubt, and notwithstanding anything to the contrary in any Loan Document, the Prepetition Credit Agreement, any additional document, instrument, certificate and/or agreement related to any of the foregoing, in no event shall any property, proceeds, cash, cash equivalents, or otherwise placed or held in the Loan Proceeds Account established pursuant to the Escrow Agreement at any time be, or be deemed to be, property of any of the Debtors or their affiliates or subsidiaries or any of the Debtors' estates and the parties to the Escrow Agreement have acknowledged and agreed to the foregoing, and the amounts on deposit in the Loan Proceeds Account shall only be made available to the Borrowers to the extent set forth in Section 4.02 hereof.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with clause (a) of this Section 2.03 and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand (without duplication) such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of (A) the Federal Funds Effective Rate and (B) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans at such time. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to

make such payment to the Administrative Agent.

Section 2.04. [Reserved].

Section 2.05. Prepayments.

(a) Optional Prepayments. The Borrowers may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Term Loans in whole or in part without premium or penalty other than the Exit Fee; provided that (1) such notice must be received by the Administrative Agent not later than 1:00 p.m. (A) three (3) Business Days prior to any date of prepayment of SOFR Loans, (B) [reserved], and (C) on the date of prepayment of Base Rate Loans; (2) any prepayment of SOFR Loans shall be in a minimum principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof; (3) any prepayment of Base Rate Loans shall be in a minimum 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 Class(es) and Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Appropriate 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 Contract Rate Loan shall be accompanied by all accrued interest thereon and any additional amounts required pursuant to Section 3.05. For the avoidance of doubt, the Borrowers may prepay any Class of Term Loans as the Borrowers may select. 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.

(i) [reserved].

(ii) If (x) the U.S. Borrower or any Restricted Subsidiary Disposes of any property or assets (other than any Disposition of any property or assets permitted by Section 7.05 (except pursuant to Section 7.05(l) or 7.05(a)), or (y) any Casualty Event occurs, which results in the realization or receipt by the U.S. Borrower or such Restricted Subsidiary of Net Cash Proceeds, the Borrowers shall make a prepayment (or cause to make a prepayment), in accordance with Section 2.05(b)(ii)(C), of an aggregate principal amount of Term Loans equal to 100% of such Net Cash Proceeds.

(A) [reserved].

(B) On each occasion that the Borrowers must make a prepayment of the Term Loans pursuant to this Section 2.05(b)(ii), the Borrowers shall, within five (5) Business Days after the date of realization or receipt of such Net Cash Proceeds, make a prepayment (or cause to make a prepayment), in accordance with Section 2.05(b)(v) below, of the principal amount of Term Loans in an amount equal to the Net Cash Proceeds realized or received.

(iii) On each occasion that a Debt Incurrence Prepayment Event occurs, the Borrowers shall, within one Business Day after the receipt of Net Cash Proceeds from a Debt Incurrence Prepayment Event, prepay in accordance with clause (iv) below, a principal amount of Term Loans and unpaid accrued interest and premium thereon in an amount equal to 100% of the Net Cash Proceeds from such Debt Incurrence Prepayment Event.

(iv) Except as set forth in clause (vii) below and subject to clause (v) below, (x) each prepayment of Loans pursuant to this Section 2.05(b) shall be applied, with respect to the Term Loans; and each such prepayment shall be paid to the Lenders in accordance with their respective Pro Rata Shares and (y) each prepayment of Term Loans required by Sections 2.05(b)(i) through (iii) shall be allocated to the Classes of Term Loans outstanding, pro rata, based upon the applicable remaining principal amounts due in respect of each such Class of Term Loans, shall be applied pro rata to Lenders within each Class, based upon the outstanding principal amounts owing to each such Lender under each such Class of Term Loans.

(v) The Borrowers shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to clauses (i), (ii) and (iii) of this Section 2.05(b) at least three (3) Business Days prior to 1:00 p.m. on the date of such prepayment. The Administrative Agent will promptly notify each Appropriate Lender of the contents of the Borrowers' prepayment notice and of such Appropriate Lender's Pro Rata Share of the prepayment. Each Appropriate Lender may reject all or a portion of its Pro Rata Share of any mandatory prepayment (such declined amounts, the "Declined Proceeds") of Term Loans required to be made pursuant to clauses (i) and (ii), of this Section 2.05(b) by providing written notice (each, a "Rejection Notice") to the Administrative Agent and the Borrowers no later than 9:00 a.m. one (1) Business Day after the date of such Lender's receipt of notice from the Administrative Agent regarding such prepayment. Each Rejection Notice from a given Lender shall specify the principal amount of the mandatory prepayment of Term Loans to be rejected by such Lender. If a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the Term Loans to be rejected, any such failure will be deemed an acceptance of the total amount of such mandatory repayment of Term Loans. Any Declined Proceeds shall be returned to and be permitted to be retained by the Borrowers ("Retained Declined Proceeds").

(vi) Notwithstanding any other provisions of this Section 2.05(b), (i) to the extent that any of or all the Net Cash Proceeds of any Disposition by a Foreign Subsidiary giving rise to a prepayment pursuant to Section 2.05(b)(ii) (a "Non-Loan Party Disposition"), the Net Cash Proceeds of any Casualty Event from a Foreign Subsidiary (a "Foreign Subsidiary Casualty Event"), the portion of such Net Cash Proceeds, or the Borrowers shall not be required to prepay the Term Loans at the time provided in Section 2.05(b)(ii), as the case may be. Instead, such amounts may be retained by the applicable Foreign Subsidiary so long, but only so long, as the applicable local Law will not permit repatriation to the United States (the Borrowers hereby agreeing to cause the applicable Foreign Subsidiary to use commercially reasonable efforts to take actions required by the applicable local Law to permit such repatriation), and once such repatriation of any of such affected Net Cash Proceeds, such Net Cash Proceeds will be applied as specified in Section 2.05(b)(ii) and (ii) to the extent that the Borrowers have determined in good faith that repatriation of any of or all the Net Cash Proceeds of any Foreign Subsidiary Disposition or any Foreign Subsidiary Casualty Event would have a material adverse tax cost consequence (taking into account any foreign tax credit or benefit received in connection with such repatriation) with respect to such Net Cash Proceeds, the Net Cash Proceeds so affected may be retained by the applicable Foreign Subsidiary; provided that in the case of this clause (ii), on or before the date on which any Net Cash Proceeds so retained would otherwise have been required to be applied to make prepayments pursuant to this Section 2.05(b), (x) the Borrowers

apply an amount equal to such Net Cash Proceeds to such prepayments as if such Net Cash Proceeds had been received by the Borrowers rather than such Foreign Subsidiary, less the amount of additional taxes that would have been payable or reserved against if such Net Cash Proceeds had been repatriated (or, if less, the Net Cash Proceeds that would be calculated if received by such Foreign Subsidiary) or (y) such Net Cash Proceeds are applied to the repayment of Indebtedness of a Foreign Subsidiary.

(c) Interest, Funding Losses, Etc. All prepayments under this Section 2.05 shall be accompanied by all accrued interest thereon and any applicable Exit Fee pursuant to Section 2.09(c) with respect to the principal amounts prepaid, together with, in the case of any such prepayment of a Contract Rate Loan on a date other than the last day of an Interest Period therefor, any amounts owing in respect of such Contract Rate Loan pursuant to Section 3.05.

(d) Application of Commitment Reductions; Payment of Fees. Each repayment of Term Loans shall be applied, first, ratably to the DIP Term Loans included in the repaid Borrowing, until all DIP Term Loans are repaid in full, and, second, ratably to the Roll-Up Loans included in the repaid Borrowing, until all Roll-Up Loans are repaid in full.

Section 2.06. Termination or Reduction of Commitments.

(a) Optional. The Borrowers may, upon written notice to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class; provided that (i) any such notice shall be received by the Administrative Agent two (2) Business Days prior to the date of termination or reduction, and (ii) any such partial reduction shall be in an aggregate amount of \$1,000,000 or any whole multiple of \$100,000 in excess thereof. It being understood and agreed that the Borrowers may allocate any termination or reduction of Commitments among Classes of Commitments at its direction.

(b) Mandatory. The DIP Term Commitment of each DIP Term Lender shall be automatically and permanently reduced to \$0 upon the making of such DIP Term Lender's DIP Term Loans pursuant to Section 2.01(a).

(c) Application of Commitment Reductions; Payment of Fees. The Administrative Agent will promptly notify the Lenders of any termination or reduction of the unused Commitments of any Class under this Section 2.06. Upon any reduction of unused Commitments of any Class, the Commitment of each Lender of such Class shall be reduced by such Lender's Pro Rata Share of the amount by which such Commitments are reduced (other than the termination of the Commitment of any Lender as provided in Section 3.07), provided, for the avoidance of doubt, the Unused Commitment Fee and Exit Fee shall be due and payable with respect to the Commitments so reduced or terminated immediately upon any such reduction or termination, as applicable.

Section 2.07. Repayment of Loans.

(a) Term Loans.

To the extent not previously paid, all outstanding Loans shall be due and payable on the Maturity Date; provided, however, that payment of the Distributable Value (as defined in the RSA) minus the sum of the Wind-Down Reserve (as defined in the RSA) shall be in full and final satisfaction of the Obligations (to the extent of such Obligations) notwithstanding the deficiency in the payment of the Obligations; provided, for the avoidance of doubt, that Existing First Lien Claims and Existing Second

Lien Claims (each as defined in the RSA) shall only be entitled to any Distributable Value if the Obligations have been first paid in full in cash.

Section 2.08. Interest.

(a) Subject to the provisions of Section 2.08(b), (i) each Base Rate Loan shall bear interest on the outstanding principal 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 and (ii) each Term SOFR Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to Term SOFR for such Interest Period plus the Applicable Rate then in effect for Term SOFR Loans.

(b) After the occurrence and during the continuance of an Event of Default, the Borrowers shall pay interest on past due amounts hereunder 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 past due amounts (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; provided, for the avoidance of doubt, that all such interest shall be payable in cash, other than PIK Interest due and payable on each Interest Payment Date (excluding any such accrued and unpaid PIK Interest on the Maturity Date, which shall be payable in cash). 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.

(d) Interest shall begin to accrue on the Roll-Up Loans from (and including) the date such Roll-Up Loans are deemed made in accordance with Section 2.01(e) (which, in the case of the Closing Date Roll-Up Loans deemed made pursuant to Section 2.01(e)(i), shall be the Closing Date). Notwithstanding anything to the contrary in this Agreement, DIP Term Loans held in the Loan Proceeds Account shall be deemed to be made and funded hereunder on the Closing Date and shall accrue interest in accordance with this Section 2.08(d) even if such DIP Term Loans are not yet withdrawn and disbursed to the Borrowers.

Section 2.09. Fees.

(a) Commitment Fee. The Borrowers agree to pay to the Administrative Agent for the ratable account of the DIP Term Loan Lenders, upfront fees in the amount of \$900,000 (representing 2.00% of the DIP Term Loan Commitments in effect immediately prior to the funding of any DIP Term Loans on the Closing Date) (the "Commitment Fee"), which shall be fully earned on the Closing Date and due and payable on Closing Date and shall be paid in cash on the Closing Date and shall be treated (and reported) by the Borrowers and the Administrative Agent as put option premium or original issue discount for U.S. federal, state, and local income tax purposes.

(b) Fee Letters. The Borrowers agree to pay all fees and expenses as set forth in the Administrative Agent Fee Letter and the Fronting Fee Letter.

(c) Backstop Fee. The Borrowers agree to pay to each of the Backstop Parties ratably based on the amount set forth next to each Backstop Party's name on Schedule 2.09, a backstop fee in the amount of \$2,250,000 (representing 5.00% of the DIP Term Loan Commitments in effect immediately prior to the funding of any DIP Term Loans on the Closing Date) (the "Backstop Fee"),

which shall be fully earned on the Closing Date and due and payable on Closing Date and shall be paid in cash on the Closing Date and shall be treated (and reported) by the Borrowers and Backstop Parties as put option premium for U.S. federal, state and local income tax purposes.

(d) Exit Fee. The Borrowers agree to pay to the Administrative Agent for the ratable account of the DIP Term Loan Lenders ratably based on their DIP Term Loans, exit fees in the amount of \$562,500 (representing 1.25% of the DIP Term Loan Commitments) (the “Exit Fee”), which shall be due and shall be paid in cash upon the earlier to occur of (i) any voluntary prepayment of any DIP Term Loans, which has been made pursuant to Section 2.05(a) herein or any mandatory prepayment of the DIP Term Loans, or any voluntary termination of Commitments and (ii) the Maturity Date and which shall be treated (and reported) by the Borrowers and the Administrative Agent as original issue discount for U.S. federal, state, and local income tax purposes.

Section 2.10. Computation of Interest and Fees. All computations of interest on Base Rate Loans shall be made on the basis of a year of 365 days or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed, or, in the case of interest in respect of Loans denominated in Alternative Currencies as to which market practice differs from the foregoing, in accordance with such market practice. 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 (acting at the Direction of the Required Lenders) of an interest rate or fee 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 Borrowers, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be prima facie evidence absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrowers 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 Borrowers 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 demonstrable error. Upon the request of any Lender made through the Administrative Agent, the Borrowers shall execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender, 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), Class, 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. 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 demonstrable 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 prima facie evidence 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, absent manifest error; 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 Borrowers under this Agreement and the other Loan Documents.

Section 2.12. Payments Generally.

(a) All payments to be made by the Borrowers shall be made on the date when due, in immediately available funds without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrowers 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 Borrowers 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 Contract 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 Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Contract Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrowers a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrowers severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrowers to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent (acting at the Direction of the Required Lenders) in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Borrowers, the interest rate applicable to Base Rate Loans. If the Borrowers and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrowers the amount of such interest paid by the Borrowers for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrowers shall be

without prejudice to any claim the Borrowers may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(d) Unless the Borrowers 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 Borrowers or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrowers or such Lender, as the case may be, has timely made such payment and may (but shall not be so 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 Borrowers 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 Borrowers 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 Borrowers, and the Borrowers 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 Borrowers may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender or the Borrowers with respect to any amount owing under this Section 2.12(d) shall be conclusive, absent demonstrable error.

(e) 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 Borrowers 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.

(f) The obligations of the Lenders hereunder to make Loans. 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.

(g) 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.

(h) Subject to Section 8.04, if at any time insufficient funds are received by and available to the Administrative Agent from the Borrowers to pay fully all amounts of principal, interest and fees then due from the Borrowers hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due from the Borrowers hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties and (ii) second, towards payment of principal then due from the Borrowers hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(i) After the occurrence and during the continuation of an Event of Default, monies to be applied to the Obligations, whether arising from payments by the Loan Parties, realization on Collateral, set-off or otherwise, shall be allocated as follows (subject, in all respects, to the Carve-Out):

(i) First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest) payable to the Agents in their capacity as such, until paid in full;

(ii) Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders, ratably among them in proportion to the amounts described in this clause Second payable to them, until paid in full;

(iii) Third, to pay interest and principal due in respect of DIP Term Loans, until paid in full;

(iv) Fourth, to pay interest and principal due in respect of the Roll-Up Loans, until paid in full; and

(v) Fifth, to pay all other Obligations that are due and payable, until paid in full.

Amounts shall be applied to each category of Obligations set forth above until paid in full and then to the next category. If amounts are insufficient to satisfy a category, they shall be applied pro rata among the Obligations in the category. The allocations set forth in this Section 2.12(i) are solely to determine the rights and priorities of the Agents and Lenders as among themselves and may be changed by agreement among the Agents and all of the Lenders without the consent of any Loan Party. This Section 2.12(i) is not for the benefit of or enforceable by any Loan Party.

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, 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, 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 Borrowers 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 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 of any Class as a result of the extension by Lenders of the maturity date or expiration date of some but not all Loans or Commitments of that Class or any increase in the Applicable 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 demonstrable 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 2.15. [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 Commitment, Outstanding Amount of Term 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. Syndication. Following the Closing Date, the Borrowers shall use commercially reasonable efforts to assist the Lenders in connection with a syndication process (the "Syndication") for the assignment of a proportionate share of the Term Loans in accordance with syndication procedures (the "Syndication Procedures") acceptable to each of the Administrative Agent and the Required Lenders (each in their sole discretion), in consultation with the Borrowers. Upon completion of the Syndication, a Schedule 2.17, which shall be prepared by the Lender Advisors and satisfactory to the Required Lenders, shall be delivered to the Administrative Agent and the Borrowers, which shall set forth the aggregate principal amount of DIP Term Loans and Roll-Up Loans held by each Lender upon closing of the Syndication.

ARTICLE III

TAXES, INCREASED COSTS PROTECTION AND ILLEGALITYSection 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 by or on account of any obligation of any Loan Party, (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 Borrowers 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 (acting at the Direction of the Required Lenders).

(b) In addition, the Loan Parties agree to pay all Other Taxes.

(c) Without duplication of any amounts payable pursuant to Section 3.01(a) or Section 3.01(b), the Borrowers agree to 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 by such Agent and 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 Borrowers by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, 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 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 remit 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 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, agrees promptly to return such refund 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 interfere with the right of a Lender or Agent to arrange its tax affairs in whatever manner it thinks fit nor 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.

(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 Borrowers, use commercially reasonable efforts (subject to legal and regulatory restrictions) to designate another Applicable Lending Office for any Loan affected by such event; provided that such efforts are made on terms that, in the judgment of such Lender, cause such Lender and its Applicable Lending Office(s) to suffer no economic, legal or regulatory disadvantage, and provided, further, that nothing in this Section 3.01(e) shall affect or postpone any of the Obligations of the Borrowers or the rights of such Lender pursuant to Section 3.01(a) or (c).

(f) Each Lender shall, at such times as are reasonably requested by a Borrower or the Administrative Agent, provide the Borrowers and the Administrative Agent with any documentation prescribed by Law, or reasonably requested by a 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 a Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Laws or reasonably requested by a Borrower or the Administrative Agent as will enable the Borrowers 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 Borrowers and the Administrative Agent updated or other appropriate documentation or promptly notify the Borrowers and the Administrative Agent in writing of its inability to do so. Notwithstanding any other provision of this clause (f) or clause (g) below, a Lender shall not be required to deliver any form that such Lender is not legally eligible to deliver.

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 U.S. Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement two properly completed and duly signed original 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 U.S. 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 U.S. 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 O (any such certificate a “United States Tax Compliance Certificate”), 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 U.S. 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), 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, United States Tax Compliance Certificate, 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 Lender that has granted a participation) and one or more beneficial owners are claiming the portfolio interest exemption, the United States Tax Compliance Certificate 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 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 Borrowers and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by a 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 a Borrower or the Administrative Agent as may be necessary for the Borrowers and the Administrative Agent to comply with their obligations under FATCA and to determine whether 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) [Reserved].

(i)

(i) All amounts set out or expressed in a Loan Document to be payable by any party to any Lender or Agent which (in whole or in part) constitute the consideration for a supply or supplies for VAT purposes shall be deemed to be exclusive of any VAT

which is chargeable on such supply or supplies, and accordingly, subject to clause (ii) below, if VAT is or becomes chargeable on any supply made by any Lender or Agent to any party under a Loan Document, that party shall pay to the Lender or Agent (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of such VAT (and such Lender or Agent shall promptly provide an appropriate VAT invoice to such party).

(ii) If VAT is or becomes chargeable on any supply made by any Lender or Agent (the “Supplier”) to any other Lender or Agent (the “Recipient”) under a Loan Document, and any party other than the Recipient (the “Subject Party”) is required by the terms of any Loan Document to pay an amount equal to the consideration for such supply to the Supplier (rather than being required to reimburse the Recipient in respect of that consideration):

- (A) where the Supplier is the person required to account to the relevant tax authority for the VAT, the Subject Party shall also pay to the Supplier (in addition to and at the same time as paying such amount) an amount equal to the amount of such VAT. The Recipient (where this Section 3.01(i)(ii)(A) applies) will promptly pay to the Subject Party an amount equal to any credit or repayment obtained by the Recipient from the relevant tax authority which the Recipient reasonably determines is in respect of such VAT; and
- (B) where the Recipient is the person required to account to the relevant tax authority for the VAT, the Subject Party shall promptly, following demand from the Recipient, pay to the Recipient an amount equal to the amount of such VAT but only to the extent that the Recipient determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT

(iii) Where a Loan Document requires any party to reimburse or indemnify a Lender or Agent for any cost or expense, that party shall reimburse or indemnify (as the case may be) such Lender or Agent for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Lender reasonably determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

(iv) Any reference in this Section 3.01(i) to any party shall, at any time when such party is treated as a member of a group for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated as making the supply or (as appropriate) receiving the supply under the grouping rules (as provided for in Article 11 of the Council Directive 2006/112/EC (as amended or as implemented by a member state of the European Union) or any other similar provision in any jurisdiction which is not a member state of the European Union) so that a reference to a party shall be construed as a reference to that party or the relevant group or unity (or fiscal unity) of which that party is a member for VAT purposes at the relevant time or the relevant representative member (or head) of that group or unity (or fiscal unity) at the relevant time (as the case may be).

(v) In relation to any supply made by a Lender or Agent to any party under a Loan Document, if reasonably requested by such Lender or Agent, that party must promptly provide such Lender or Agent with details of that party's VAT registration and such other information as is reasonably requested in connection with such Lender's or Agent's VAT reporting requirements in relation to such supply.

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 Term SOFR Loans or Loans whose interest is determined by reference to a Relevant Rate, or to determine or charge interest rates based upon Term SOFR as contemplated by this Agreement, then, upon notice thereof by such Lender to the Borrowers through the Administrative Agent, in respect of Term SOFR Loans or Loans based on the Relevant Rate, (A) any obligation of such Lender to make or maintain Term SOFR Loans or to convert Base Rate Loans to Term SOFR Loans, as applicable, shall be suspended until such Lender notifies the Administrative Agent and the Borrowers that the circumstances giving rise to such determination no longer exist and, (B) upon receipt of such notice, the Borrowers shall upon demand from such Lender (with a copy to the Administrative Agent), prepay such Term SOFR Loans that have become unlawful or, if applicable, convert all Term SOFR 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 Term SOFR Loans, as applicable, to such day, or promptly, if such Lender may not lawfully continue to maintain such Term SOFR Loans, as applicable, (C) upon any such prepayment or conversion, the Borrowers 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 Borrowers 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.

(a) If in connection with any request for a Borrowing of a Term SOFR Loan or a conversion of Base Rate Loans to Term SOFR Loans as applicable, (A) the Administrative Agent (acting at the Direction of the Required Lenders) determines (which determination shall be conclusive absent manifest error) that (x) no Successor Rate for the Relevant Rate has been determined in accordance with Section 3.03(b), and the circumstances under clause (i) of Section 3.03(b) or the Scheduled Unavailability Date has occurred with respect to such Relevant Rate (as applicable), or (y) adequate and reasonable means do not otherwise exist for determining the Relevant Rate for any determination date(s) or requested Interest Period, as applicable, with respect to a proposed Term SOFR Loan or in connection with an existing or proposed Base Rate Loan, or (B) the Required Lenders determine that for any reason the applicable Relevant Rate with respect to a proposed Loan for any requested Interest Period or determination date(s) does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrowers and each relevant Lender. Thereafter, (x) the obligation of the relevant Lenders to make or maintain Term SOFR Loans or to convert Base Rate Loans to Term SOFR Loans, as the case may be, shall be suspended (to the extent of

the affected Term SOFR or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Term SOFR component of the Base Rate, the utilization of the Term SOFR component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (or, in the case of a determination by the Required Lenders described in clause (B) of this Section 3.03(a), until the Administrative Agent upon instruction of the Required Lenders) revokes such notice.

Upon receipt of such notice, (x) the applicable Borrower may revoke any pending request for a Borrowing or continuation of, or conversion to, Term SOFR Loans to the extent of the affected Term SOFR Loans or Interest Period or determination date(s), as applicable, or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans denominated in Dollars of the amount specified therein and (y) any outstanding affected Term SOFR Loans shall be deemed to have been converted to Base Rate Loans immediately at the end of their respective applicable Interest Period.

(b) Replacement of Term SOFR or Successor Rate. Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent (acting at the Direction of the Required Lenders) determines (which determination shall be conclusive absent manifest error), or the Borrowers or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to the Borrowers) that the Borrowers or Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining the Relevant Rate because (x) none of the one month, three month or six month interest periods of such Relevant Rate (including any forward-looking term rate thereof) is available or published on a current basis and such circumstances are unlikely to be temporary or (y) such Relevant Rate is unavailable or not published on a current basis and such circumstances are unlikely to be temporary; or

(ii) the Applicable Authority (or any successor administrator of such Relevant Rate) has made a public statement or publication of information identifying a specific date after which (x) one month, three month and six month interest periods of the Relevant Rate (including any forward-looking term rate thereof) and/or (y) such Relevant Rate shall or will no longer be representative of the underlying market and economic reality that such Relevant Rate is intended to measure, or made available, or permitted to be used for determining the interest rate of such loans, or shall or will otherwise cease, provided that, in each case, at the time of such statement, there is no successor administrator that is satisfactory to the Administrative Agent that will continue to provide such interest period(s) of the Relevant Rate (the latest date on which one month, three month and six month interest periods of the Relevant Rate (including any forward-looking term rate thereof)) or such Relevant Rate are no longer representative or available permanently or indefinitely (such specific date, the “Scheduled Unavailability Date”);

then, (x) with respect to Term SOFR, on a date and time determined by the Administrative Agent (any such date, the “Term SOFR Replacement Date”), which date will be at the end of an Interest Period or on the relevant interest payment date, as applicable, for interest calculated and solely with respect to clause (B) above, no later than the Scheduled Unavailability Date, Term SOFR will be replaced hereunder and under any Loan Document with, Daily Simple SOFR for any payment period for interest calculated that can be determined by the Administrative Agent, in each case, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document (the “Term SOFR Successor Rate”), and (y) with respect to any (A) Relevant Rate (other than Term SOFR) or (B) any then current Successor Rate if the events or circumstances of the type described in Section 3.03(a)(i) or (ii)

have occurred with respect to the Successor Rate then in effect (or if Daily Simple SOFR is not available on or prior to the Term SOFR Replacement Date), reasonably promptly after such determination by the Administrative Agent or receipt by the Administrative Agent of such notice, as applicable, the Administrative Agent and the Borrowers may amend this Agreement solely for the purpose of replacing the Relevant Rate or any then current Successor Rate in accordance with this Section 3.03 with an alternate benchmark rate giving due consideration to any evolving or then existing convention for similar credit facilities syndicated and agented in the U.S., and, in each case, including any mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar credit facilities syndicated and agented in the U.S., which adjustment or method for calculating such adjustment shall be published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion and may be periodically updated (and any such proposed rate, including for the avoidance of doubt, any adjustment thereto, an “Other Relevant Rate Successor Rate”, and together with the Term SOFR Successor Rate, a “Successor Rate”), and any such amendment pursuant to this clause (y) shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Borrowers unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Agent written notice that such Required Lenders object to such amendment.

If the Successor Rate is Daily Simple SOFR, all interest payments will be payable on a quarterly basis on the last Business Day of each December, March, June and September.

The Administrative Agent will promptly (in one or more notices) notify the Borrowers and each Lender of the implementation of any Successor Rate.

Any Successor Rate shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Successor Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

Notwithstanding anything else herein, if at any time any Successor Rate as so determined would otherwise be in the case of Term Loans, less than 1.00%, such Successor Rate will be deemed to be 1.00% for the purposes of this Agreement and the other Loan Documents.

In connection with the implementation of a Successor Rate, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Borrowers and the Lenders reasonably promptly after such amendment becomes effective.

Section 3.04. Increased Cost and Reduced Return; Capital Adequacy; Reserves on Contract 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 Term SOFR Loan, 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 Borrowers 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 or liquidity requirements 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 Borrowers 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 Borrowers 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 any Relevant Rate funds or deposits, additional interest on the unpaid principal amount of each Contract 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 in the absence of demonstrable 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 Term SOFR 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 demonstrable error) which in each case shall be due and payable on each date on which interest is payable on such Loan; provided the Borrowers 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 affected by such event; provided that nothing in this Section 3.04(e) shall affect or postpone any of the Obligations of the Borrowers or the rights of such Lender pursuant to Section 3.04(a), (b), (c) or (d).

(f) Notwithstanding anything in this Section 3.04 to the contrary, no Lender shall receive compensation pursuant to this Section 3.04, unless such Lender is generally seeking compensation from other borrowers in the U.S. leveraged loan market with respect to its similarly affected loans under agreements with such borrowers having provisions similar to this Section 3.04.

Section 3.05. Funding Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrowers 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 Contract Rate Loan on a day other than the last day of the Interest Period for such Loan; or

(b) any failure by the Borrowers (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 Borrowers setting forth the additional amount or amounts to be paid to it hereunder which shall be conclusive in the absence of demonstrable error (provided that such Agent or Lender will not in any way be required to disclose confidential or price-sensitive information or any other information the disclosure of which is prohibited by law). 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 Borrowers 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 notifies the Borrowers of the event that gives rise to such claim; 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 Borrowers under Section 3.02, Section 3.03 or Section 3.04, the Borrowers may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue the applicable Contract Rate Loan from one Interest Period to another, or to convert Base Rate Loans into Contract 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 Contract Rate Loans from one Interest Period to another, or to convert Base Rate Loans into Contract Rate Loans, shall be suspended pursuant to Section 3.06(b) hereof, such Lender's Contract Rate Loans shall be automatically converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for such Contract 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 Contract Rate Loans have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's Contract 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 Contract 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 Contract Rate Loans shall remain as Base Rate Loans.

(d) If any Lender gives notice to the Borrowers (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 Contract 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 Contract Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted to Contract Rate Loans on the first day(s) of the next succeeding Interest Period(s) for such outstanding Contract Rate Loans to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Contract 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 (i) any Lender requests reimbursement for amounts owing pursuant to Section 3.01 or Section 3.04 as a result of any condition described in such Sections or any Lender ceases to make Contract Rate Loans of any Class as a result of any condition described in Section 3.02, or Section 3.04, (ii) any Lender becomes a Defaulting Lender or (iii) any Lender is a Non-Consenting Lender, then the Borrowers 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 (or, with respect to clause (iii) above, all of its rights and obligations with respect to the Class of Loans or Commitments that is the subject of the related consent, waiver or amendment) to one or more Eligible Assignees; provided that neither the Administrative Agent nor any Lender shall have any obligation to the Borrowers to find a replacement Lender or other such Person; 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; and provided, further, that if a Non-Consenting Lender is forced to assign its Commitment under this Agreement, such Non-Consenting Lender shall be entitled to payment of the Exit Fee with respect to such DIP Term Loan, accrued through such date of assignment.

(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, 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 Borrowers 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, as applicable, (B) all obligations of the Borrowers 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 Borrowers 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) [Reserved].

(d) In the event that (i) the Borrowers or the Administrative Agent has requested that the Lenders consent to a departure, termination, discharge or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of all Lenders or all affected Lenders in accordance with the terms of Section 10.01 or all the Lenders with respect to a certain Class of the Loans, or with respect to the Facilities as a whole and (iii) the Required Lenders have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a “Non-Consenting Lender.”

(e) 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 Loan Parties’ 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 to 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 Borrowers 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:

- (i) executed counterparts of this Agreement and the Guarantee;
- (ii) executed counterparts of the Escrow Agreement;
- (iii) a certificate signed by a Responsible Officer of the U.S. Borrower certifying that the conditions set forth in clause (f) below are satisfied;
- (iv) certificates substantially in the form of Exhibit J for each Loan Party which attach (A) resolutions or other action documentation, (B) incumbency certificates for each Loan Party other than the Dutch Borrower or an extract of the trade register of the Dutch Chamber of Commerce in relation the Dutch Borrower, (C) Organizational Documents, (D) good standing certificates (for each Loan Party other than the Dutch Borrower) and (E) for the Dutch Borrower, if applicable, a copy of a request for advice from the works council of the Dutch Borrower and an unconditional positive advice from the works council;
- (v) an opinion from Kirkland & Ellis LLP, New York counsel to the U.S. Loan Parties; and
- (vi) a Committed Loan Notice relating to the initial Credit Extensions.

(b) All fees and expenses required to be paid hereunder and pursuant to the Administrative Agent Fee Letter and the Fronting Fee Letter, and in the case of expenses, to the extent invoiced prior to the Closing Date (except as otherwise agreed by the Borrowers) shall, substantially concurrently with the initial Borrowing of the DIP Term Loans, have been paid (which amounts may, at the Borrowers' option, be offset against the proceeds of the Facilities).

(c) The Administrative Agent shall have received all fees and other amounts previously agreed in writing by Holdings to be due and payable on or prior to the Closing Date, including the fees of the Lender Advisors, to the extent invoiced prior to the Closing Date (except as otherwise reasonably agreed by Borrowers), and the reimbursement or payment of all out-of-pocket expenses (including reasonable fees, charges and disbursements of counsel including the fees of Gibson, Dunn & Crutcher LLP, Rothschild & Co US Inc. and Loyens & Loeff N.V.) required to be reimbursed or paid by any Loan Party under any Loan Document.

(d) After giving effect to the borrowings to be made on the Closing Date, Liquidity shall be no less than \$2,500,000.

(e) The RSA remains in full force and effect and the Loan Parties are not in Default under or have not breached such agreement.

(f) The representations and warranties of the Borrowers and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the Closing Date; 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.

(g) The Administrative Agent shall have received, at least three Business Days prior to the Closing Date, all documentation and other information about the Borrowers and the Guarantors as has been reasonably requested in writing at least ten Business Days prior to the Closing Date by the Administrative Agent that they reasonably determine is required by U.S. regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act.

(h) The Administrative Agent and Lender Advisors on behalf of the Lenders shall have received the Approved Budget in form and substance satisfactory to the Required Lenders.

(i) The Bankruptcy Court shall have entered the Interim Order, no later than five (5) Business Days after the Petition Date, and such order shall be in form and substance satisfactory to the Required Lenders (which satisfaction may be communicated via an email from the Lender Advisors) (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent), be in full force and effect, and shall not have been reversed, modified, amended, stayed or vacated absent prior written consent of the Required Lenders (which consent may be communicated via an email from each of the Lender Advisors, as applicable) (and with respect to any provisions that affect the rights or duties of the Administrative Agent, the Administrative Agent); (ii) the Lenders shall have received drafts of the "first day" pleadings for the Chapter 11 Cases, in each case, in form and substance reasonably satisfactory to the Required Lenders (which satisfaction may be communicated via an email from the Lender Advisors), not later than a reasonable time in advance of the Petition Date for the Lenders' counsel to review and analyze the same; (iii) all motions, orders (including the "first day" orders), and other documents to be filed with or submitted to the Bankruptcy Court on the Petition Date shall be in form and substance reasonably acceptable to the Required Lenders (which satisfaction may be communicated via an email from the Lender Advisors); and (iv) all "first day" orders

shall have been approved and entered by the Bankruptcy Court except as otherwise reasonably agreed by the Required Lenders (which agreement may be communicated via an email from each of the Lender Advisors).

(j) The Prepetition Agent and the Prepetition Lenders shall have each consented or are deemed to consent to the use of collateral or received adequate protection (if applicable) in respect of the liens securing their respective obligations pursuant to the Interim Order.

(k) [Reserved].

(l) As of the Closing Date, no Event of Default or Default shall have occurred and be continuing.

Section 4.02. Conditions to Each Withdrawal. Any Withdrawal after the Closing Date is subject to the satisfaction or waiver by the Required Lenders of the following conditions precedent:

(a) The Bankruptcy Court shall have entered the Final Order, it shall be in full force and effect and it shall not have been vacated, stayed, reversed, modified or amended, in whole or in any part, without the Required Lenders' written consent (which consent may be communicated via an email from the Lender Advisors). All other "second day" orders shall be entered in form and substance acceptable to the Required Lenders.

(b) The representations and warranties of the Borrowers and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Withdrawal; 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 (after giving effect to any qualification therein) in all respects on such respective dates.

(c) No Default shall exist, or would result from such proposed Withdrawal or from the application of the proceeds therefrom.

(d) The Administrative Agent shall have received a Withdrawal Notice executed by the Borrower requesting the proposed Withdrawal thereunder by no later than 2:00 p.m. two (2) Business Days prior to the proposed Withdrawal Date.

(e) The Withdrawal shall not exceed \$2,000,000.

(f) No motion, pleading or application seeking relief affecting the provision of the financing contemplated hereunder in a manner that is adverse to the Lenders, in their capacities as such, shall have been filed in the Bankruptcy Court by any Loan Party without the prior written consent of the Administrative Agent (at the Direction of the Required Lenders).

(g) The Agents and the Lender Advisors, as applicable, shall have received all fees and other amounts previously agreed in writing by Holdings to be due and payable on such date, including, for the avoidance of doubt, the fees of the Lender Advisors, to the extent invoiced prior to such Withdrawal, as applicable (except as otherwise reasonably agreed by the Borrowers), reimbursement or payment of all out-of-pocket expenses (including reasonable fees, charges and disbursements of counsel) required to be reimbursed or paid by any Loan Party under any Loan Document.

(h) The aggregate amount of unrestricted cash and Cash Equivalents included in the consolidated balance sheet of the Borrower as of the date of such Withdrawal shall not exceed, (i) to the extent such cash is located in accounts in the United States, \$7,000,000 or (ii) to the extent such cash is located in accounts outside of the United States, \$14,000,000.

(i) The RSA remains in full force and effect and the Loan Parties are not in default under or have not breached such agreement.

(j) After due inquiry, each Loan Party is unaware of any fraudulent activities in connection with its business.

(k) The Bankruptcy Court shall have entered an order (which may be the Final Order) approving the roll-up of the Prepetition Loans contemplated in Section 2.01(b)(ii), which order shall be in full force and effect and shall not have been vacated, stayed, reversed, modified or amended with respect to such matter without the Required Lenders' written consent (which consent may be communicated via an email from the Lender Advisors).

(l) The Loan Parties shall be in compliance with the Approved Budget in all respects and the proceeds of the Loans shall be used as set forth in the Approved Budget (in each case, subject to the Permitted Variance).

(m) The Borrower shall be in compliance in all respects with the Milestones.

Upon receipt of the Withdrawal Notice and satisfaction of the conditions set forth in Article 4, the Administrative Agent shall promptly direct the Escrow Agent to disburse funds by 2:00 p.m. on the applicable Withdrawal Date; provided that, if the Required Lenders determine (which determination may be communicated via an email from each of the Lender Advisors) that the Borrower has failed to satisfy the conditions precedent set forth in this Section 4.02 for a Withdrawal Notice and so advise the Administrative Agent in writing (directly or through the Lender Advisors) prior to the Escrow Agent disbursing the Withdrawal, the Administrative Agent shall decline to authorize such Withdrawal and shall communicate the same to the Escrow Agent.

On any date on which the Loans shall have been accelerated, any amounts remaining in the Loan Proceeds Account, as the case may be, may be applied by the Administrative Agent to reduce the Loans then outstanding, in accordance with Section 2.12. None of the Loan Parties shall have (and each Loan Party hereby affirmatively waives) any right to withdraw, claim or assert any property interest in any funds on deposit in the Loan Proceeds Account upon the occurrence and during the continuance of any Default or Event of Default. It is understood and agreed that the Administrative Agent may not deliver a "Termination Notice" (as defined and under the Escrow Agreement) unless and until an Event of Default has occurred and is continuing or otherwise.

The acceptance by the Borrower of the Loans or proceeds of a Withdrawal shall conclusively be deemed to constitute a representation by the Borrower that each of the conditions precedent set forth in Section 4.01 and Section 4.02 shall have been satisfied in accordance with its respective terms or shall have been irrevocably waived by the applicable relevant Person; provided, however, that the making of any such Loan or Withdrawal (regardless of whether the lack of satisfaction was known or unknown at the time), shall not be deemed a modification or waiver by the Agents, any Lender or other Secured Party of the provisions of this Article 4 on such occasion or on any future occasion or operate as a waiver of (i) the right of the Administrative Agent and the Lenders to insist upon satisfaction of all conditions precedent with respect to any subsequent funding or issuance, (ii) any Default or Event of Default due to such failure of conditions or otherwise or (iii) any rights of any Agent

or any Lender as a result of any such failure of the Loan Parties to comply.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Borrowers represent and warrant to the Agents and the Lenders that:

Section 5.01. Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each other Restricted 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 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 Organizational 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 Collateral Agent for the benefit of the Secured Parties, (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 and (iii) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not, individually or in the aggregate, reasonably be expected to have a Material Adverse 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 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 the Borrowers and their Restricted Subsidiaries 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 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.

(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.

Section 5.06. Litigation. Except as set forth on Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrowers, threatened in writing, at law, in equity, in arbitration or by or before any Governmental Authority, by or against the U.S. Borrower or any Restricted 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 Restricted 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 Liens, and, under Dutch law, all attachments, 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 Borrowers, threatened in writing against the U.S. Borrower or any Restricted Subsidiary alleging violation of, or liability under, any applicable Environmental Law that would reasonably be expected to have a Material Adverse Effect.

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

(c) Except as would not reasonably be expected to result in a Material Adverse Effect, the U.S. Borrower and the Restricted Subsidiaries and their respective facilities and operations are in compliance with all applicable Environmental Laws and have obtained, maintained and are in compliance with all permits, licenses and other approvals as required under any Environmental Law.

(d) Except as would not reasonably be expected to result in a Material Adverse Effect, to the Borrowers' 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 U.S. Borrower and each Restricted Subsidiary have timely filed all federal, state, local, foreign and other tax returns and reports required to be filed, and have timely paid all federal, state, local, foreign and other taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP and, except for failures to file or pay as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. There are no Tax audits, deficiencies, assessments or other claims with respect to the U.S. Borrower or any Restricted Subsidiary that could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

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 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 or is reasonably expected to occur, (ii) neither any Loan Party nor any ERISA Affiliate has incurred any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA would result in such liability) under Section 4201 et seq. 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 and (iv) no Foreign Pension Event has occurred or is reasonably expected to occur, 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.

(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 U.S. Borrower or its Restricted Subsidiaries pending or, to the knowledge of the Borrowers, threatened, (ii) hours worked by and payment made to employees of the U.S. Borrower or any of its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Laws, (iii) the U.S. 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 U.S. Borrower or any of its Restricted Subsidiaries on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant party.

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 Borrowers 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 U.S. 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 Transaction 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 U.S. Borrower and any of their Restricted 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 U.S. Borrower, any of their respective Restricted 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 Borrowers 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 U.S. Borrower and the Restricted 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 Restricted 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, trade secrets, 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, free and clear of all Liens and 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,. No such IP Rights nor the operation of the businesses of the Loan Parties and the Restricted Subsidiaries 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 (including “cease and desist” letters and invitations to take a patent license) against any Loan

Party or Restricted 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. (a) Subject to the entry thereof, the DIP Order creates in favor of the Collateral Agent (for the benefit of the Secured Parties), in each case, a legal, valid and enforceable security interest in and Liens on the Collateral described therein and proceeds thereof, which security interest and Lien shall be valid and perfected as of the Closing Date by entry of the DIP Order with respect to each Loan Party and which shall constitute a continuing security interest and Lien on the Collateral having priority over all other security interests and Liens on the Collateral and securing all the Obligations, other than as set forth in the DIP Order. The Collateral Agent and Lenders shall not be required to file or record any financing statements, mortgages, notices of Lien or similar instruments, in any jurisdiction or filing office or to take any other action in order to validate, perfect or establish the priority of the security interest and Lien granted pursuant to the DIP Order.

(b) Pursuant to Section 364(c)(1) of the U.S. Bankruptcy Code, the Obligations of the Loan Parties shall at all times constitute allowed senior administrative expenses against each of the Loan Parties in the Chapter 11 Cases (without the need to file any proof of claim or request for payment of administrative expense), with priority over any and all other administrative expenses, adequate protection claims, diminution claims and all other claims against the Loan Parties, now existing or hereafter arising, of any kind or nature whatsoever, including, without limitation, all administrative expenses of the kind specified in Sections 503(b) and 507(b) of the U.S. Bankruptcy Code, and over any and all other administrative expense claims arising under Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 546, 726, 1113 and 1114 of the U.S. Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment Lien or other non-consensual Lien, levy or attachment, which allowed claims shall for purposes of Section 1129(a)(9)(A) of the U.S. Bankruptcy Code be considered administrative expenses allowed under Section 503(b) of the U.S. Bankruptcy Code, and which shall be payable from and have recourse to all pre- and post-petition property of the Loan Parties and their estates and all proceeds thereof other than as set forth in the DIP Order.

Section 5.17. Use of Proceeds. The proceeds of the Term Loans shall be subject to and used in accordance with the Approved Budget (subject to Permitted Variances) and subject to the terms and conditions of this Agreement, the “first day” orders (solely to the extent permitted under the Approved Budget (subject to Permitted Variances)) and the DIP Order to (i) provide working capital and for other general corporate purposes of the Debtors, (ii) fund the costs of the administration of the Chapter 11 Cases (including professional fees and expenses) and sales under Section 363 of the Bankruptcy Code, (iii) make any other payments consistent with the Approved Budget, in each case, subject to Permitted Variances, and (iv) in accordance with the Wind-Down Budget (as defined in the RSA) in accordance with the RSA, as applicable.

Section 5.18. Senior Indebtedness. The Obligations constitute “Senior Indebtedness” (or similar or comparable term) of the Borrowers under any agreement, indenture or instrument pursuant to which any Subordinated Debt is Incurred.

Section 5.19. Patriot Act.

(a) Neither the Borrowers nor any other Loan Party is in violation of any 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 will not violate 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) or any Sanctions laws.

Section 5.20. Anti-Corruption Laws. No part of the proceeds of the Loans will be used, directly, or, to the knowledge of the Borrowers, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of Anti-Corruption Laws, including the United States Foreign Corrupt Practices Act of 1977, as amended. The Borrowers and their Subsidiaries have conducted their business in compliance with Anti-Corruption Laws in all material respects.

Section 5.21. Sanctioned Persons.

(a) None of Holdings, the U.S. Borrower or any Restricted Subsidiary is currently the target of any Sanctions. The U.S. Borrower and its Subsidiaries have conducted their business in compliance with Sanctions in all material respects.

(b) The Borrowers will not, directly or, to its knowledge, indirectly, use the proceeds of the Loans in any manner that will result in a violation by any Lender of any Sanctions.

Section 5.22. Centre of Main Interest. Other than any transaction or matter not prohibited or as otherwise expressly contemplated by this Agreement, no Loan Party incorporated in a member state of the European Union has changed its centre of main interest (as that term is used in Article 3(1) of Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast)) or its jurisdiction of incorporation other than to (a) the Netherlands or (b) to any other jurisdiction unless to do so would reasonably be expected to be materially prejudicial to the interests of the Lenders taken as a whole under this Agreement.

Section 5.23. Bankruptcy Matters.

(a) The Chapter 11 Cases were commenced on the Petition Date in accordance in all material respects with applicable law and proper notice thereof was given. Proper notice was also provided for (x) the motion seeking approval of the Loan Documents pursuant to the DIP Order and (y) the hearing for the approval of the DIP Order.

(b) After entry of the Interim Order (and the Final Order when applicable) and pursuant to and to the extent provided in the Interim Order and the Final Order, as applicable, the Obligations will be secured by a valid and perfected first priority Lien on all of the Collateral, (i) encumbered by no Liens other than Liens permitted by Section 7.01 and (ii) prior and superior to any other Person or Lien pursuant to Section 364(d)(1) of the Bankruptcy Code, in each case, other than the Carve-Out and the Prior Senior Liens (as defined in the DIP Order) and subject to the priorities set forth in the Interim Order or the Final Order, as applicable.

(c) The Interim Order (with respect to the period prior to the entry of the Final Order) or the Final Order (with respect to the period on and after the entry of the Final Order), as the case may be, is in full force and effect and has not been reversed, stayed (whether by statutory stay or otherwise), modified or amended without the Required Lenders' consent (which consent of the Required Lenders may be communicated via an email from the Lender Advisors).

ARTICLE VI

AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than contingent indemnification obligations and other contingent obligations) hereunder which is accrued and payable shall remain unpaid or unsatisfied,, the U.S. 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 Restricted Subsidiary to:

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

(a) [reserved]; and

(b) as soon as available, but in any event, within sixty (60) days after the end of each of the first three (3) fiscal quarters of each fiscal year of the U.S. Borrower, a consolidated balance sheet of the U.S. Borrower and its consolidated Subsidiaries and, if different, a consolidated balance sheet of the U.S. Borrower and the Restricted 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 U.S. Borrower and the Restricted Subsidiaries, a detailed reconciliation, reflecting such financial information for the U.S. Borrower and the Restricted Subsidiaries, on the one hand, and the U.S. 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 U.S. Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the U.S. Borrower and its consolidated Subsidiaries (or, in the case of any reconciliation, the U.S. Borrower and its Restricted Subsidiaries) in accordance with GAAP, subject to changes resulting from audit and normal year-end audit adjustments and to the absence of footnotes.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.01 may be satisfied with respect to financial information of the U.S. Borrower and its consolidated Subsidiaries by furnishing (A) the applicable financial statements of any Parent Entity that holds the Equity Interests of the U.S. Borrower or (B) if applicable, the U.S. Borrower's (or any Parent Entity's) Form 10-K, 10-Q, Annual Information Form and quarterly financial statements, as applicable, filed with the SEC; provided that with respect to each of clauses (A) and (B), (i) to the extent such information relates to a Parent Entity, such information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to the U.S. Borrower (or such parent), on the one hand, and the information relating to the U.S. Borrower and its Restricted Subsidiaries on a standalone basis, on the other hand and (ii) to the extent such information is in lieu of information required to be provided under Section 6.01(a), such materials are accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report and opinion shall (i) be prepared in accordance with generally accepted auditing standards and (ii) not be subject to any "going concern" or like qualification or any qualification as to the scope of such audit (other than any qualification, that is expressly solely with respect to, or expressly resulting solely from, (i) an upcoming maturity date under any Indebtedness, (ii) any actual or potential inability to satisfy a financial maintenance covenant at such time or on a future date or in a future period or (iii) the activities, operations, financial results, assets or liabilities of any Unrestricted Subsidiary).

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

(a) [reserved];

(b) promptly after the same are publicly available, copies of all annual, regular, periodic and special reports and registration statements which the U.S. 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) [reserved];

(d) with reasonable promptness, but subject to the limitations set forth in the last sentence of Section 6.09 and Section 10.08, such other information (financial or otherwise) as the Administrative Agent (acting at the Direction of the Required Lenders) or any Lender may reasonably request in writing from time to time..

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 Borrowers' behalf on IntraLinks/IntraAgency, Syndtrak, ClearPar, Debtdomain or another relevant website (the "Platform"), if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) upon written request by the Administrative Agent (acting at the Direction of the Required Lenders), the Borrowers 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 Borrowers shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrowers hereby acknowledge that certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrowers or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrowers hereby agree that they will use commercially reasonable efforts to identify that portion of the Borrowers Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrowers shall be deemed to have authorized the Administrative Agent and the Lenders to treat such information as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Borrowers or their securities for purposes of United States Federal and state securities laws and (y) all materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information."

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, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrowers propose to take with respect thereto;

(b) any litigation or governmental proceeding (including, without limitation, pursuant to any applicable Environmental Laws) pending against the U.S. 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; and

(c) of the occurrence of any ERISA Event with respect to a Pension Plan or Multiemployer 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.

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 Borrowers 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, rights 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 Borrowers), 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 U.S. Borrower and its Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons (in the good faith determination of the Borrowers). All such insurance shall be endorsed or otherwise amended to name the Collateral Agent as additional insured and/or loss payee as applicable, and insurance certificates and endorsements evidencing same shall be delivered to the Collateral 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 Sanctions laws, 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 U.S. Borrower or such Restricted 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 Borrowers' 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 Borrowers and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrowers; provided that excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent (acting at the Direction of the Required Lenders) may exercise rights of the Administrative Agent and the Lenders under this Section 6.09 and the Administrative Agent shall not exercise such rights more often than one (1) time during any calendar year; provided, further, that when an Event of Default exists, the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrowers at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Lenders shall give the Borrowers the opportunity to participate in any discussions with the Borrowers' independent public accountants. Notwithstanding anything to the contrary in this Section 6.09, none of the U.S. Borrower or any Restricted 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. [Reserved].

Section 6.11. Use of Proceeds. Use the proceeds of any Term Loans in a manner consistent with the uses set forth in Section 5.17 hereof.

Section 6.12. Further Assurances and Additional Subsidiaries. If any additional direct or indirect Subsidiary of any Borrower is formed or acquired after the Closing Date and if such Subsidiary becomes a Debtor under the Chapter 11 Cases, within 5 Business Days after the date such Subsidiary becomes a Debtor under the Chapter 11 Cases (or such longer period as the Administrative Agent may agree in its reasonable discretion), notify the Collateral Agent thereof and cause the Collateral and Guarantee Requirement to be satisfied with respect to such Subsidiary. The Borrowers shall and shall cause the Guarantors to take any and all actions reasonably requested by the Administrative Agent or Required Lenders that they deem necessary or advisable to obtain or maintain a valid and perfected Lien with respect to the Collateral, all at the expense of the Loan Parties. Notwithstanding anything to the contrary contained in this Agreement or any other Loan Document, no Subsidiary of any Debtor that is not a Debtor shall be required to become a Guarantor or Loan Party under the Loan Documents.

Section 6.13. [Reserved].

Section 6.14. Payment of Taxes. The U.S. Borrower will, and will cause each of its Restricted Subsidiaries to, pay and discharge all taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, in each case on a timely basis, and all lawful claims which, if unpaid, may reasonably be expected to become a lien or charge upon any properties of the U.S. Borrower or any of its Restricted Subsidiaries not otherwise permitted under this Agreement; provided that neither the U.S. Borrower nor any of its Restricted Subsidiaries shall be required to pay any such tax, assessment, charge, levy or claim which is being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or if the failure to pay would not reasonably be expected to result in a Material Adverse Effect.

Section 6.15. Nature of Business. The U.S. Borrower and its Restricted Subsidiaries, taken as a whole, will not fundamentally and substantively alter the character of their business, taken as a whole, from the business conducted by the U.S. Borrower and its Restricted 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 U.S. Borrower will not change its fiscal year from ending on September 30; provided, however, that the U.S. Borrower may, upon written notice to the Administrative Agent, change the financial reporting convention specified above to any other financial reporting convention reasonably acceptable to the Administrative Agent (acting at the Direction of the Required Lenders), in which case the Borrowers and the Required Lenders will make any adjustments to this Agreement and the other Loan Documents that are necessary in order to reflect such change in financial reporting.

Section 6.17. [Reserved].

Section 6.18. Centre of Main Interest. Other than any transaction or matter not prohibited or as otherwise expressly contemplated by this Agreement, the U.S. Borrower will, and will cause each Restricted Subsidiary to, not allow any Loan Party incorporated in a member state of the European Union to change its centre of main interest (as that term is used in Article 3(1) Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast)) or its jurisdiction of incorporation other than to (a) the Netherlands or (b) to any other jurisdiction unless to do so would reasonably be expected to be materially prejudicial to the interests of the Lenders taken as a whole under this Agreement.

Section 6.19. Milestones. The Borrowers shall, or shall cause, the actions and events set forth on Annex I to occur by the times and dates set forth therein, unless waived by the Administrative Agent (acting at the Direction of the Required Lenders), as any such time and date may be extended from time to time by the Administrative Agent (acting at the Direction of the Required Lenders); provided that, without limiting the foregoing, where used in Annex I, any “delivery” required by this Section 6.19 shall require delivery to the Lender Advisors (and all such deliveries are to be in form and substance satisfactory to the Required Lenders in their sole discretion), as well as to any other Person specified in Annex I attached hereto (each, a “Milestone” and collectively, the “Milestones”).

Section 6.20. Approved Budget.²

(a) The use of Loans by the Loan Parties under this Agreement and the other Loan Documents shall be limited in accordance with the Approved Budget (subject to Permitted Variances). The Approved Budget shall set forth, on a weekly basis, for the period ending the week of September 6, 2024 covered thereby, the Budgeted Cash Receipts, Budgeted Disbursement Amounts, Budgeted Liquidity and Budgeted Borrower Professional Fees for the period commencing with the week that includes the Closing Date and shall be approved by, and be in form and substance satisfactory to, the Required Lenders (it being acknowledged and agreed that the form of Approved Budget set forth as Exhibit V hereto is approved by and satisfactory to the Required Lenders and is and shall be the Approved Budget unless and until replaced in accordance with the terms of this Section 6.20). The Approved Budget shall (i) include line-item reporting, the nature and scope of which shall be satisfactory

² NTD: Budget provisions and related definitions subject to review by GDC and Rothschild in all respects.

to the Required Lenders and (ii) otherwise be in form and substance satisfactory to, and subject to the approval of, the Required Lenders.

(b) The Approved Budget shall be updated, modified or supplemented by the Borrowers on July 12, 2024 if requested by the Borrowers or the Required Lenders; *provided* that the Borrowers shall be limited to two (2) requests for an updated Approved Budget during the ninety (90) days following the Petition Date; *provided, further*, that no such updated, modified or supplemented budget shall be effective as an Approved Budget if Required Lenders object in writing (which objection may be communicated by means of a Direction of the Required Lenders) within ten (10) Business Days of receipt, and, if no written objection is received within ten (10) Business Days of receipt, the updated, modified or supplemented budget shall be deemed an Approved Budget; *provided, further*, however, that in the event the Required Lenders, on the one hand, and the Borrower, on the other hand, cannot agree as to an updated, modified or supplemented budget, the then current Approved Budget shall remain in effect unless and until a new Approved Budget is not objected to by the Required Lenders (which objection may be communicated by means of a Direction of the Required Lenders). Each Approved Budget delivered to the Administrative Agent and the Lender Advisors shall be accompanied by such supporting documentation as reasonably requested by the Required Lenders. Each Approved Budget shall be prepared in good faith based upon assumptions believed by the Borrowers to be reasonable at the time of preparation thereof.

(c) Commencing with the First Testing Period and for each Variance Testing Period thereafter, the Borrowers shall not permit: (x) the Actual Cash Receipts to be less than Budgeted Cash Receipts (each calculated on a cumulative basis as opposed to on a line by line basis), in each case, for such Variance Testing Period, by more than 15.0% for such Variance Testing Period; and (y) “Total Operating Disbursements” to exceed the Budgeted Disbursement Amounts (for the avoidance of doubt, excluding Budgeted Borrower Professional Fees) (each calculated on a cumulative basis as opposed to on a line by line basis), in each case, for such Variance Testing Period, by more than 10.0% for such Variance Testing Period (the “Permitted Variances”). It is understood and agreed that the Borrowers shall receive credit in subsequent Variance Testing Periods (x) for purposes of the receipts test set forth in clause (x) of the prior sentence, for any overperformance on receipts for the applicable Variance Testing Periods prior thereto and (y) for purposes of the disbursements test set forth in clause (y) of the prior sentence, for any overperformance on disbursements for the applicable Variance Testing Periods prior thereto.

(d) The Borrowers shall deliver to the Administrative Agent and the Lenders on or before 5:00 p.m. New York City time on Friday of each week commencing on June 28, 2024, a Weekly Approved Budget Variance Report.

(e) The Borrowers shall deliver to the Administrative Agent and the Lenders concurrently with the delivery of the Approved Budget Variance Report pursuant to clause (d) above, a certificate which shall include such detail as is reasonably satisfactory to the Required Lenders, signed by a Responsible Officer of the Borrowers (1) certifying that (i) the Loan Parties are in compliance with the covenants contained in Section 6.20, (ii) no Default or Event of Default has occurred or, if such a Default or Event of Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, and (iii) the Loan Parties are in compliance with the Minimum Liquidity Covenant set forth in Section 7.12 at all times during the Variance Testing Period then most recently ended, and (2) attaching an Approved Budget Variance Report, which shall be prepared by the Borrowers as of the last day of the respective Variance Testing Period then most recently ended.

(f) The Lenders (i) may assume that the Loan Parties will comply with the Approved Budget (subject to Permitted Variances), (ii) shall have no duty to monitor such compliance and (iii) shall not be obligated to pay (directly or indirectly from the Collateral) any unpaid expenses incurred or authorized to be incurred pursuant to any Approved Budget. The line items in the Approved Budget for payment of interest, expenses and other amounts to the Administrative Agent and the Lenders are estimates only, and the Loan Parties remain obligated to pay any and all Obligations in accordance with the terms of the Loan Documents regardless of whether such amounts exceed such estimates. Nothing in any Approved Budget shall constitute an amendment or other modification of any Loan Document or other lending limits set forth therein.

Section 6.21. Lender Advisors; Professional Services Firm. The Lenders (taken as a whole) shall be entitled to retain or continue to retain (either directly or through counsel) any Lender Advisor as the Required Lenders may deem necessary to provide advice, analysis and reporting for the benefit of the Lenders. The Loan Parties shall pay all reasonable and documented out of pocket fees, charges and disbursements of each Lender Advisor and all such fees and expenses shall constitute Obligations and be secured by the Collateral. The Loan Parties (whether directly or, as appropriate, through their relevant advisors) shall use commercially reasonable efforts to cooperate with the Lender Advisors in connection with the services the Lender Advisors provide to the Lenders, including to promptly furnish to the Lender Advisors the ordinary course monthly financial materials provided to the Board of Directors of Holdings or the Borrowers(excluding, for the avoidance of doubt, any such materials that would adversely affect any legal privilege or that relate to the Lenders, the Loan Documents or other material debt financing arrangements; provided that the Borrowers will use reasonable efforts to deliver such information in a manner that would not adversely affect such legal privilege) (it being understood that none of the foregoing shall be construed to override any existing confidentiality and/or other obligations owed by the Loan Parties to such of its advisors or any other Person, including with respect to the sharing of any such information with third parties).

Section 6.22. Chief Restructuring Officer. Concurrently with the execution of this Agreement, the Borrowers shall appoint a Chief Restructuring Officer (a “CRO”) acceptable to the Required Lenders (which may be communicated by a Direction of the Required Lenders), at the Company’s sole cost and expense; provided that, for the avoidance of doubt, the Required Lenders hereby consent to the appointment of Eric Koza or Charles Braley, of AlixPartners LLP as the CRO. The terms, including the scope of the CRO’s engagement shall be reasonably acceptable to the Required Lenders (which may be communicated by a Direction of the Required Lenders). The Borrowers shall have such CRO engaged at all times while any of the Loan Document Obligations are outstanding.

Section 6.23. Weekly Advisor Calls.

(a) Commencing the week of June 10, 2024, the Borrower, AlixPartners LLP and the Borrower’s advisors shall hold twice-weekly calls with the Lender Advisors provided that, to the extent requested by the Lender Advisors, such twice-weekly call shall include representatives from the Lenders and the Borrower, as applicable. The date and time of the Twice-Weekly Advisor Calls shall be agreed among the Required Lenders and the Borrower.

Section 6.24. Cash Management. Maintain the cash management of the Loan Parties in accordance in all material respects with the Cash Management Order.

Section 6.25. Additional Bankruptcy Matters. Promptly provide the Administrative Agent, the Lenders and the Lender Advisors with updates of any material developments in the Chapter 11 Cases, whether in connection with the sale of all or substantially all of the Borrower’s and its

Subsidiaries' consolidated assets, the marketing of any Loan Parties' assets, the formulation of bidding procedures, an auction plan, and documents related thereto.

ARTICLE VII

NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than contingent indemnification obligations and other contingent obligations) hereunder which is accrued and payable shall remain unpaid or unsatisfied, the U.S. Borrower shall not, nor shall it permit any of its Restricted 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, or, under Dutch law, attachment, upon any of its property, rights, assets or revenues, whether now owned or hereafter acquired, other than the following:

- (a) Liens created pursuant to the Loan Documents to secure the Obligations;
- (b) Liens existing on the Closing Date and set forth on Schedule 7.01(b) or, to the extent not listed in such Schedule, such property or assets have a Fair Market Value on the Closing Date that does not exceed \$2,500,000 in the aggregate; provided that (i) such Lien does not extend to any other property or asset of the U.S. Borrower or any Restricted Subsidiary other than (A) after acquired property that is affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted by Section 7.03 and (B) the proceeds and products thereof and (ii) such Lien shall secure only those obligations that it secures on the Closing Date;
- (c) Liens for Taxes, assessments or governmental charges which are not overdue for a period of more than 60 days or if overdue by more than 60 days (i) which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person to the extent required in accordance with GAAP or (ii) which are with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;
- (d) inchoate, statutory or common law Liens and other Liens arising by operation of law (other than any Lien imposed by ERISA), including landlords, lessors, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens arising in the ordinary course of business which secure amounts (i) that are not overdue for a period of more than 30 days or if more than 30 days overdue, are unfiled (or if filed have been discharged or stayed) and no other action has been taken to enforce such Lien or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person to the extent required in accordance with GAAP or (ii) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;
- (e) (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 U.S. Borrower or any Restricted Subsidiary;

(f) Liens incurred or deposits made in the ordinary course of business 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;

(g) 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 U.S. Borrower and its Restricted Subsidiaries, taken as a whole;

(h) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(g);

(i) [reserved];

(j) 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;

(k) 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;

(l) [reserved];

(m) [reserved];

(n) [reserved];

(o) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the U.S. Borrower or any of its Restricted Subsidiaries in the ordinary course of business;

(p) 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 U.S. Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the U.S. Borrower or its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the U.S. Borrower or any Restricted Subsidiary in the ordinary course of business;

(q) Liens arising from precautionary Uniform Commercial Code financing statement filings;

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

(s) 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 U.S. Borrower or any Restricted Subsidiary;

(t) Liens on specific items of inventory or other goods and the proceeds thereof securing such Person's obligations in respect of documentary letters of credit issued for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods; or

(u) the modification, replacement, renewal or extension of any Lien permitted by clauses (b), (i) (m), and (n) of this Section 7.01; provided that (i) the Lien does not extend to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted under Section 7.03, and (B) proceeds and products thereof; and (ii) the renewal, extension or refinancing of the obligations secured or benefited by such Liens is permitted by Section 7.03;

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

(w) [reserved];

(x) [reserved];

(y) [reserved];

(z) Liens securing Swap Contracts submitted for clearing in accordance with applicable Law in the ordinary course of business and consistent with past practice;

(aa) [reserved];

(bb) [reserved];

(cc) [reserved];

(dd) 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 U.S. Borrower or any Restricted Subsidiary; provided that such Liens do not materially interfere with the ordinary conduct of the business of the U.S. Borrower or any Restricted Subsidiary; and

(ee) any Lien arising under article 24 or 25 of the general banking conditions (*algemene bankvoorwaarden*) of any member of the Dutch Banker's Association (*Nederlandse Vereniging van Banken*) or any similar term applied by a financial institution in the Netherlands pursuant to its general terms and conditions.

Notwithstanding the foregoing under this Section 7.01, U.S. Borrower shall not, nor shall it permit any of the Guarantors to, directly or indirectly create, incur, assume or suffer to exist any consensual Lien upon any of its real property.

Section 7.02. Investments. Make any Investments, except:

- (a) Investments by the U.S. Borrower or a Restricted Subsidiary in assets that were Cash Equivalents when such Investment was made;
- (b) loans or advances to officers, directors, partners and employees of Holdings (or any Parent Entity), the U.S. Borrower or its Restricted Subsidiaries for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes;
- (c) asset purchases (including purchases of inventory, supplies and materials), the lease or sublease of any asset, or licensing or contribution of IP Rights pursuant to joint marketing arrangements with other Persons, in each case in the ordinary course of business and consistent with past practice;
- (d) Investments (i) by any Loan Party in any other Loan Party (it being understood and agreed that any Investments by any Loan Party in any Non-Loan Party that is part of a series of simultaneous Investments by the U.S. Borrower and the Restricted Subsidiaries in other Restricted Subsidiaries that result in the proceeds of the intercompany Investment being invested in any Loan Party shall be permitted pursuant to this clause (i)), (ii) by any Restricted Subsidiary in any Loan Party, (iii) by any Non-Loan Party in any other Non-Loan Party and (iv) by any Loan Party in any Non-Loan Party; provided that any such Investment made pursuant to this clause (iv) is (w) made in the ordinary course of business, (x) consistent with past practice, (y) for a bona fide business purpose and (z) does not exceed the amount for such Investment in the Approved Budget (subject to Permitted Variances);
- (e) 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;
- (f) [reserved];
- (g) (i) Investments existing on the Closing Date and (ii) Investments consisting of any 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(g) is not increased from the aggregate amount of such Investments on the Closing Date except pursuant to the terms of such Investment as of the Closing Date or as otherwise permitted by this Section 7.02;
- (h) Investments in Swap Contracts permitted under Section 7.03(h);
- (i) [reserved];
- (j) [reserved];
- (k) [reserved];
- (l) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers consistent with past practices;
- (m) 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;

(n) [reserved];

(o) 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;

(p) Guarantee Obligations of the U.S. Borrower or any Restricted 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 and consistent with past practice;

(q) [reserved];

(r) Guarantee Obligations of the U.S. Borrower or any Restricted Subsidiary in connection with the provision of credit card payment processing services in the ordinary course of business and consistent with past practice;

(s) contributions to a “rabbi” trust for the benefit of employees, directors, consultants, independent contractors or other service providers or other grantor trust subject to claims of creditors in the case of a bankruptcy of the U.S. Borrower (or any Parent Entity thereof);

(t) [reserved];

(u) [reserved];

(v) [reserved];

(w) [reserved];

(x) [reserved]; and

(y) 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.

Notwithstanding anything to the contrary contained in this Agreement, in no event shall (a) the Borrowers or any Loan Party sell, transfer or otherwise dispose of any Material Property (whether pursuant to a sale, lease, license, transfer, Investment, Restricted Payment, dividend or otherwise or relating to the exclusive rights thereto) to any Subsidiary that is not a Loan Party; provided that in no event shall this sentence prohibit the Borrowers or its Subsidiaries from entering into non-exclusive licensing arrangements of Intellectual Property to a Subsidiary in the ordinary course of business for a bona fide business purpose and (b) no Restricted Subsidiary that is not a Loan Party shall own or hold an exclusive license to any Material Property.

Section 7.03. Indebtedness. Incur any Indebtedness, except:

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

(b) (x) Indebtedness represented by the Second Lien Term Facility and any guarantee thereof outstanding as of the Closing Date and (y) Existing Notes, Existing Term Loans and any guarantee of the foregoing, in each case, outstanding as of the Closing Date;

(c) Indebtedness (i) listed on Schedule 7.03(c) and (ii) that is intercompany Indebtedness outstanding on the date hereof;

(d) Guarantee Obligations of the U.S. Borrower and its Restricted Subsidiaries in respect of Indebtedness of any U.S. Borrower or any Restricted Subsidiary otherwise permitted hereunder (except that a Non-Loan Party may not, by virtue of this Section 7.03(d), guarantee Indebtedness that such Non-Loan Party could not otherwise incur under this Section 7.03); 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 Restricted Subsidiary of any Indebtedness of a Loan Party shall be permitted unless such Restricted Subsidiary shall have also provided a Guarantee of the Obligations;

(e) Indebtedness of the U.S. Borrower or any Restricted Subsidiary owing to the Borrowers or any other Restricted Subsidiary to the extent constituting an Investment permitted by Section 7.02; provided that all such Indebtedness of any Loan Party owed to any Person that is not a Loan Party shall be subordinated in right of payment to the Obligations;

(f) [reserved]

(g) [reserved];

(h) Indebtedness in respect of Swap Contracts incurred in the ordinary course of business and consistent with past practice and not for speculative purposes;

(i) [reserved];

(j) Indebtedness representing deferred compensation to employees, directors, consultants, contract providers, independent contractors or other service providers of Holdings (or any Parent Entity thereof), the U.S. Borrower and the Restricted Subsidiaries Incurred in the ordinary course of business;

(k) [reserved];

(l) [reserved];

(m) [reserved];

(n) Indebtedness consisting of (a) the financing of insurance premiums or (b) take or pay obligations entered into in the ordinary course of business and consistent with past practice;

(o) Indebtedness Incurred by the U.S. Borrower or any of its Restricted Subsidiaries in respect of letters of credit, bank guarantees, banker's acceptances, warehouse receipts or similar instruments issued or created in the ordinary course of business and consistent with past practice, including in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims;

(p) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the U.S. Borrower or any of its Restricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business and consistent with past practice;

(q) [Reserved];

(r) [Reserved];

(s) [Reserved];

(t) [Reserved];

(u) [Reserved];

(v) Guarantee Obligations of the U.S. Borrower or any Restricted Subsidiary in connection with the provision of credit card payment processing services in the ordinary course of business and consistent with past practice;

(w) [Reserved];

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

(y) (i) unsecured Indebtedness in respect of obligations of the U.S. Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and consistent with past practice and not in connection with the borrowing of money and (ii) unsecured Indebtedness in respect of intercompany obligations of the U.S. Borrower or any Restricted Subsidiary arising on account of accounts payable incurred in connection with goods sold or services rendered in the ordinary course of business and consistent with past practice and not in connection with the borrowing of money;

(z) Indebtedness arising from agreements of the U.S. Borrower or any Restricted Subsidiary providing for indemnification, adjustment of purchase price or similar obligations (including earn-outs), in each case entered into in connection with Investments and the Disposition of any business, assets or Equity Interests permitted hereunder, other than Guarantee Obligations incurred by any Person acquiring all or any portion of such business, assets or Equity Interests for the purpose of financing such acquisition;

(aa) [Reserved];

(bb) [Reserved];

(cc) Indebtedness incurred under a declaration of joint and several liability (*hoofdelijke aansprakelijkheid*) used for the purpose of section 2:403 of the Dutch Civil Code (and any residual liability (*overblijvende aansprakelijkheid*) under such declaration arising pursuant to section 2:404(2) of the Dutch Civil Code) and issued by the Borrowers in respect of any of its wholly-owned Subsidiaries;

(dd) any Indebtedness incurred in connection with a fiscal unity (*fiscale eenheid*);

(ee) [reserved]; and

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

Notwithstanding the foregoing, Indebtedness of the Borrowers or any Loan Party owing to Holdings or another Restricted Subsidiary that is not a Loan Party shall be unsecured, subordinated in right of payment to the Guaranty of such Guarantor as the case may be and any guarantee by the Borrowers or any Loan Party of Indebtedness of Holdings or another Restricted Subsidiary that is not a Loan Party shall be subordinated in right of payment to the Guaranty of such Guarantor;

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, except that:

(a) [reserved];

(b) any Subsidiary of the U.S. Borrower or any other Person (other than Holdings) may be merged, amalgamated or consolidated with or into any one or more Restricted Subsidiaries of the U.S. Borrower or any Restricted Subsidiary may Dispose of all or substantially all of its business units, assets and other properties; provided that, (i) in the case of any merger, amalgamation, consolidation or Disposition involving one or more Restricted Subsidiaries, (A) a Restricted Subsidiary shall be the continuing or surviving Person or the transferee of such assets or (B) the U.S. Borrower shall take all steps necessary to cause the Person formed by or surviving any such merger, amalgamation, consolidation or the transferee of such assets and properties (if other than a Restricted Subsidiary) to become a Restricted Subsidiary, (ii) in the case of any merger, amalgamation, consolidation or Disposition involving one or more Subsidiary Guarantors, a Subsidiary Guarantor shall be the continuing or surviving Person or the Person formed by or surviving such merger, amalgamation or consolidation or the transferee of such assets and properties is a Loan Party (if other than a Subsidiary Guarantor) shall execute a supplement to the Guarantee and the Security Agreement in form and substance reasonably satisfactory to the Collateral Agent (acting at the Direction of the Required Lenders) in order for the surviving Person to become a Subsidiary Guarantor and pledgor and grantor of Collateral for the benefit of the Secured Parties and otherwise satisfy the Collateral and Guaranty Requirement, and (iii) if such merger, amalgamation, consolidation or Disposition involves a Restricted Subsidiary and a Person that, prior to the consummation of such merger, amalgamation, consolidation or Disposition, is not a Restricted Subsidiary of the U.S. Borrower (A) a Restricted Subsidiary shall be the continuing or surviving Person or the transferee of such assets; provided that no Event of Default shall have occurred and be continuing on the date of such merger, amalgamation, consolidation or Disposition or would result from the consummation of such merger, amalgamation, consolidation or Disposition, (B) the U.S. Borrower shall have delivered to the Administrative Agent a certificate of a Responsible Officer stating that such merger,

amalgamation, consolidation or Disposition and such supplements to any Loan Document preserve the enforceability of the Guarantees and the perfection and priority of the Liens under the Collateral Documents and (C) such merger, amalgamation, consolidation or Disposition shall be permitted under Section 7.05;

(c) any Non-Loan Party may Dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the U.S. Borrower, a Guarantor or any other Restricted Subsidiary of the U.S. Borrower;

(d) any Subsidiary Guarantor may (i) merge, amalgamate or consolidate with or into any other Subsidiary Guarantor, (ii) merge, amalgamate or consolidate with or into any Non-Loan Party; provided that if such Subsidiary Guarantor is not the surviving entity, such merger, amalgamation or consolidation shall be deemed to be an "Investment" and subject to the limitations set forth in Section 7.02 and (iii) Dispose of any or all of its assets (upon voluntary liquidation or otherwise) to the Borrowers or any other Subsidiary Guarantor;

(e) any Restricted Subsidiary may liquidate or dissolve if (x) the Borrowers determine in good faith that such liquidation or dissolution is in the best interests of the Borrowers and is not materially disadvantageous to the Lenders and (y) to the extent such Restricted Subsidiary is a Subsidiary Guarantor, any assets or business not otherwise Disposed of or transferred in accordance with Section 7.02 or 7.05, or, in the case of any such business, discontinued, shall be transferred to, or otherwise owned or conducted by, the Borrowers or another Subsidiary Guarantor after giving effect to such liquidation or dissolution;

(f) [Reserved]; and

(g) any Restricted Subsidiary may merge, consolidate or amalgamate with any other Person in order to effect an Investment permitted pursuant to Section 7.02; provided that the continuing or surviving Person shall be a Restricted Subsidiary.

Notwithstanding anything to the contrary contained in this Agreement, in no event shall (a) the Borrowers or any Loan Party sell, transfer or otherwise dispose of any Material Property (whether pursuant to a sale, lease, license, transfer, Investment, Restricted Payment, dividend or otherwise or relating to the exclusive rights thereto) to any Subsidiary that is not a Loan Party; provided that in no event shall this sentence prohibit the Borrowers or its Subsidiaries from entering into non-exclusive licensing arrangements of Intellectual Property to a Subsidiary in the ordinary course of business for a bona fide business purpose and (b) no Restricted Subsidiary that is not a Loan Party shall own or hold an exclusive license to any Material Property.

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 consistent with past practice and Dispositions of property no longer used or useful, or economically practicable to maintain, in the conduct of the business of the U.S. Borrower and its Restricted Subsidiaries;

(b) Dispositions of inventory and other assets in the ordinary course of business and consistent with past practice (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 and consistent with past practice);

(c) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property that is promptly purchased or (ii) the proceeds of such Disposition are promptly applied to the purchase price of such replacement property (which replacement property is actually promptly purchased);

(d) Dispositions of property to the U.S. Borrower or a Restricted Subsidiary; provided that if the transferor of such property is a Loan Party, (i) the transferee must be a Loan Party or (ii) such transaction is an Investment permitted under Section 7.02;

(e) [reserved];

(f) [reserved];

(g) leases, subleases, non-exclusive licenses or sublicenses, in each case in the ordinary course of business and consistent with past practice and which do not materially interfere with the business of the U.S. Borrower and its Restricted Subsidiaries, taken as a whole;

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

(i) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

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

(k) the unwinding of any Swap Contract pursuant to its terms;

(l) dispositions of non-core assets acquired in connection with any Investment permitted hereunder;

(m) [Reserved];

(n) the U.S. Borrower and the Restricted Subsidiaries may sell or discount without recourse accounts receivable arising in the ordinary course of business and consistent with past practice in connection with the compromise or collection thereof;

(o) [Reserved];

(p) [reserved]; and

(q) the issuance of directors' qualifying shares and shares issued to foreign nationals in nominal amounts as required by applicable law.

Notwithstanding anything to the contrary contained in this Agreement, in no event shall (a) the Borrowers or any Loan Party sell, transfer or otherwise dispose of any Material Property (whether pursuant to a sale, lease, license, transfer, Investment, Restricted Payment, dividend or otherwise or relating to the exclusive rights thereto) to any Subsidiary that is not a Loan Party; provided that in no event shall this sentence prohibit the Borrowers or its Subsidiaries from entering into non-exclusive licensing arrangements of Intellectual Property to a Subsidiary in the ordinary course of business for a bona fide business purpose

and (b) no Restricted Subsidiary that is not a Loan Party shall own or hold an exclusive license to any Material Property.

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

(a) each Restricted Subsidiary may make Restricted Payments to the U.S. Borrower and to other Restricted Subsidiaries (and, in the case of a Restricted Payment by a non-Wholly-Owned Restricted Subsidiary, to the U.S. Borrower and any other Restricted Subsidiary and to each other owner of Equity Interests of such Restricted Subsidiary based on their relative ownership interests of the relevant class of Equity Interests); provided that, any Loan Party may only make Restricted Payments to other Loan Parties;

(b) [Reserved];

(c) [Reserved];

(d) to the extent constituting Restricted Payments, the U.S. Borrower and its Restricted Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Section 7.02, Section 7.04 or Sections 7.07(d), (h) and (j);

(e) repurchases of Equity Interests in the ordinary course of business in the U.S. Borrower (or any Parent Entity) or any Restricted Subsidiary deemed to occur upon exercise, vesting and/or settlement of Equity Interests if such Equity Interests represent a portion of the exercise price thereof or any portion of required withholding or similar taxes due upon the exercise, vesting and/or settlement thereof;

(f) [reserved]; and

(g) the U.S. Borrower and its Restricted Subsidiaries may make Restricted Payments to any Parent Entity of the U.S. Borrower:

(i) the proceeds of which will be used to pay any U.S. federal, state, local or foreign income Taxes for any taxable period ending after the Closing Date of a consolidated, combined or similar tax group of which the U.S. Borrower and/or any of its Subsidiaries is a member and of which such Parent Entity is the common parent, to the extent such Taxes are attributable to the income of the U.S. Borrower or its applicable Subsidiaries; provided that (x) no such payments in respect of any taxable period shall exceed, in the aggregate, the amount of such income tax that would have been imposed on the U.S. Borrower and/or the applicable Subsidiaries had such entity(ies) filed on a stand-alone basis for all applicable periods, (y) [reserved] and (z) such payments are (A) made in the ordinary course of business, (B) consistent with past practice, (C) for a bona fide business purpose and (D) do not exceed the amount for such payments in the Approved Budget (subject to Permitted Variances);

(ii) [reserved];

(iii) the proceeds of which shall be used to pay franchise or similar taxes, and other fees and expenses, required to maintain its (or any of its direct or indirect parents') existence in the ordinary course of business and consistent with past practice;

(iv) [reserved];

(v) [reserved]; and

(vi) the proceeds of which shall be used to pay customary salary, compensation, bonus and other benefits payable to officers, employees, consultants and other service providers of any Parent Entity or partner of the Borrowers to the extent such salaries, compensation, bonuses and other benefits are attributable to the ownership or operation of the U.S. Borrower and its Restricted Subsidiaries in the ordinary course of business and consistent with past practice.

Notwithstanding anything to the contrary contained in this Agreement, in no event shall (a) the Borrowers or any Loan Party sell, transfer or otherwise dispose of any Material Property (whether pursuant to a sale, lease, license, transfer, Investment, Restricted Payment, dividend or otherwise or relating to the exclusive rights thereto) to any Subsidiary that is not a Loan Party; provided that in no event shall this sentence prohibit the Borrowers or its Subsidiaries from entering into non-exclusive licensing arrangements of Intellectual Property to a Subsidiary in the ordinary course of business for a bona fide business purpose and (b) no Restricted Subsidiary that is not a Loan Party shall own or hold an exclusive license to any Material Property.

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 Borrowers or any Restricted Subsidiary in the ordinary course of business and consistent with past practice;

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

(c) [Reserved];

(d) [reserved];

(e) Restricted Payments permitted under Section 7.06;

(f) [Reserved];

(g) employment, compensation, severance or termination arrangements between any Parent Entity, a Borrower or any of their Subsidiaries and their respective officers, employees and consultants (including management and employee benefit plans or agreements, subscription agreements or similar agreements pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with current or former employees, officers, directors consultants and stock option or incentive plans and other compensation arrangements) in the ordinary course of business and consistent with past practice and transactions pursuant to management equity plans, stock option plans and other employee benefit plans, agreements and arrangements;

(h) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, officers, managers, employees, consultants and other service providers of the U.S. Borrower and its Restricted Subsidiaries or any Parent Entity in the ordinary course

of business and consistent with past practice to the extent attributable to the ownership or operation of the U.S. Borrower and its Restricted Subsidiaries;

(i) transactions pursuant to permitted agreements in existence on the Closing Date and set forth on Schedule 7.07 or any amendment thereto to the extent such an amendment, taken as a whole, is not adverse to the Lenders in any material respect;

(j) [reserved];

(k) the issuance or transfer of Equity Interests (other than Disqualified Equity Interests) of Holdings (or any Parent Entity) to any Permitted Holder or to any former, current or future director, manager, officer, partner, member, employee, consultant or other service provider (or any Affiliate of any of the foregoing) of Holdings (or any Parent Entity), U.S. Borrower, any of the Restricted Subsidiaries or any direct or indirect parent thereof;

(l) any issuance of Equity Interests, or other payments, awards or grants in cash, securities, Equity Interests or otherwise pursuant to, or the funding of, employment arrangements, stock options and stock ownership plans approved by the Board of Directors of any Parent Entity of the Borrowers or a Borrower, as the case may be;

(m) transactions with Wholly-Owned Subsidiaries for the purchase or sale of goods, products, parts and services entered into in the ordinary course of business in a manner consistent with past practice and prudent business practice followed by companies in the industry of the U.S. Borrower and its Subsidiaries;

(n) transactions with joint ventures for the purchase or sale of goods, equipment and services entered into in the ordinary course of business and in a manner consistent with past practice and with prudent business practice followed by companies in the industry of the U.S. Borrower and its Subsidiaries; and

(o) to the extent not prohibited by Sections 7.06(g)(i) and (iii), payments by any Parent Entity of the Borrowers, U.S. Borrower and the Restricted Subsidiaries pursuant to Tax sharing agreements among any such Parent Entity, the U.S. Borrower and the Restricted Subsidiaries on customary terms; provided that payments by the U.S. Borrower and the Restricted Subsidiaries under any such Tax sharing agreements shall not exceed the excess (if any) of the amount they would pay on a standalone basis over the amount they actually pay to Governmental Authorities; provided, further that such payments are (w) made in the ordinary course of business, (x) consistent with past practice, (y) for a bona fide business purpose and (z) do not exceed the amount for such payment in the Approved Budget (subject to Permitted Variances).

Notwithstanding the foregoing provisions in this Section 7.07, the Borrowers and any Restricted Subsidiaries shall not make any payment to the Sponsor (including, without limitation, any payments for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, and any fees in connection with acquisitions or divestitures).

Section 7.08. Prepayments, Etc., of Indebtedness.

(a) Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner any Junior Debt, except for, the conversion thereof to Equity Interests (other than Disqualified Equity Interests) of Holdings or a Borrower or any Parent Entity;

(b) Amend, modify or change in any manner materially adverse to the interests of the Lenders any term or condition of the Junior Debt Documents without the consent of the Required Lenders; and

(c) Notwithstanding the foregoing and for the avoidance of doubt, nothing in this Section 7.08 shall prohibit the repayment or prepayment of intercompany subordinated Indebtedness owed among the U.S. Borrower and/or the Restricted Subsidiaries if set forth in the Approved Budget, in either case unless an Event of Default has occurred and is continuing and the Borrowers have received a notice from the Collateral Agent or the Required Lenders instructing it not to make or permit the U.S. Borrower and/or the Restricted Subsidiaries to make any such repayment or prepayment.

Section 7.09. [Reserved].

Section 7.10. Holdings and the Dutch Borrower Covenants. Each of Holdings and the Dutch Borrower shall not conduct, transact or otherwise engage in any business or operations other than, as applicable, (i) the ownership and/or acquisition of the Equity Interests (other than Disqualified Equity Interests) of the U.S. 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 public offering of its common stock or any other issuance or registration of its Equity Interests for sale or resale not prohibited by Section 7, including the costs, fees and expenses related thereto, (vi) any transaction between Holdings and the U.S. Borrower or any Restricted Subsidiary permitted under this Section 7, including (a) making any dividend or distribution or other transaction similar to a Restricted Payment not prohibited by Section 7.07 (or the making of a loan to its Parent Entities in lieu of any such permitted Restricted Payment or distribution or other transaction similar to a Restricted Payment) or holding any cash received in connection with Restricted Payments made by the Borrowers in accordance with Section 7.07 pending application thereof by Holdings in the manner contemplated by Section 7.07 (including the redemption in whole or in part of any of its Equity Interests (other than Disqualified Equity Interests) in exchange for another class of Equity Interests (other than Disqualified Equity Interests) or rights to acquire its Equity Interests (other than Disqualified Equity Interests) or with proceeds from substantially concurrent equity contributions or issuances of new shares of its Equity Interests (other than Disqualified Equity Interests)), (b) making any Investment to the extent (1) payment therefor is made solely with the Equity Interests of Holdings or the Borrower, as applicable (other than Disqualified Equity Interests), the proceeds of Restricted Payments received from any Borrower and/or proceeds of the issuance of, or contribution in respect of the, Equity Interests (other than Disqualified Equity Interests) of Holdings and (2) any property (including Equity Interests) acquired in connection therewith is contributed to any Borrower or a Subsidiary Guarantor (or, if otherwise permitted by Section 7.04, a Restricted Subsidiary) or the Person formed or acquired in connection therewith is merged with the Borrowers or a Restricted Subsidiary and (c) the (x) provision of guarantees in the ordinary course of business and consistent with past practice in respect of obligations of the U.S. Borrower or any of its Subsidiaries to suppliers, customers, franchisees, lessors, licensees, sublicensees or distribution partners; provided, for the avoidance of doubt, that such guarantees shall not be in respect of debt for borrowed money, (y) incurrence of guarantees in respect of Indebtedness permitted to be incurred by the U.S. Borrower or any of its Restricted Subsidiaries hereunder and (z) granting of Liens to the extent the guarantees in respect of Indebtedness contemplated by subclause (y) is permitted to be secured under Section 7.01, (vii) incurring fees, costs and expenses relating to overhead and general operating including professional fees for legal, tax and accounting issues and paying Taxes, (viii) providing indemnification to officers and directors and as otherwise permitted in Section 7, (ix) activities incidental to the consummation of the Transactions, (x) organizational activities incidental to permitted Investments consummated by the Borrower, including the formation of acquisition

vehicle entities and intercompany loans and/or investments incidental to such Investments in each case consummated substantially contemporaneously with the consummation of the applicable Investments; provided that in no event shall any such activities include the incurrence of a Lien on any of the assets of Holdings or the Dutch Borrower, as applicable, (xi) the making of any loan to any officers or directors contemplated by Section 7.02, the making of any Investment in the U.S. Borrower or any Subsidiary Guarantor or, to the extent otherwise allowed under Section 7.02, a Restricted Subsidiary, (xii) activities required to comply with applicable Laws, (xiii) maintenance and administration of stock option and stock ownership plans and activities incidental thereto, (xiv) 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, (xv) in connection with, and following the completion of, a Qualifying IPO, activities necessary or reasonably advisable for or incidental to the initial registration and listing of Holdings or the Dutch Borrower, as applicable, common stock and the continued existence of Holdings or the Dutch Borrower, as applicable, as a public company, (xvi) activities incidental to the businesses or activities described in clauses (i) to (xv) 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 Term Facility, (D) the Existing Credit Agreement, and (E) the Note Purchase 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 Restricted 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 Restricted Subsidiary and the restriction or condition set forth in such agreement does not apply to the U.S. Borrower or any other Restricted Subsidiary;

(g) restrictions or conditions in any Indebtedness permitted pursuant to Section 7.03 that is incurred or assumed by Non-Loan Parties to the extent such restrictions or conditions are no more restrictive than the restrictions and conditions in the Loan Documents;

(h) restrictions on cash or other deposits imposed by agreements entered into in the ordinary course of business and consistent with past practice (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) customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted by Section 7.02 and applicable solely to such joint venture and entered into in the ordinary course of business;

(k) negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 7.03(f) or (g), 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;

(m) customary net worth provisions contained in real property leases entered into by Subsidiaries of the U.S. Borrower, so long as the U.S. Borrower has determined in good faith that such net worth provisions could not reasonably be expected to impair the ability of the U.S. Borrower and its Subsidiaries to meet their ongoing obligation; and

(n) provisions restricting the granting of a security interest in IP Rights contained in licenses or sublicenses by the U.S. Borrower and its Restricted Subsidiaries of such IP Rights, which licenses and sublicenses were entered into in the ordinary course of business and consistent with past practice (in which case such restriction shall relate only to such IP Rights).

Section 7.12. Minimum Liquidity. Permit Liquidity at any time to be less than \$2,500,000 (the “Minimum Liquidity Covenant”).

Section 7.13. Insolvency Proceeding Claims. Incur, create, assume, suffer to exist or permit, or permit any Subsidiary to incur, create, assume, suffer to exist or permit, any other super priority administrative claim which is pari passu with or senior to the claim of the Administrative Agent or the Lenders against the Debtors, except as set forth in the DIP Order.

Section 7.14. Bankruptcy Actions. Seek, consent to, or permit to exist, or permit any Subsidiary to seek, consent to or permit to exist, without the prior written consent of the Required Lenders (which approval may be communicated via an email from any of the Lender Advisors) (which consent shall constitute authorization under this Agreement), any order granting authority to take any action that is prohibited by the terms of this Agreement, the DIP Order or the other Loan Documents or refrain from taking any action that is required to be taken by the terms of the DIP Order or any of the other Loan Documents.

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 (k) inclusive of this Section 8.01 shall constitute an “Event of Default”:

(a) Non-Payment. Any Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or (ii) within three (3) Business Days after the same becomes

due, any interest on any Loan or any other amount payable hereunder or with respect to any other Loan Document; or

(b) Specific Covenants. The U.S. Borrower or any Restricted Subsidiary fails to perform or observe any term, covenant or agreement contained in any of Section 6.03(a), Section 6.04 (solely with respect to the U.S. Borrower), Section 6.18, Section 6.19, Section 6.20, Section 6.21, Section 6.22, Section 6.23, Section 6.24, Section 6.25, or Article VII.

(c) Other Defaults. Any Loan Party or any Restricted 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 receipt by the Borrowers of written notice thereof by 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 as of the date made or deemed made; or

(e) Cross-Default. Any Loan Party or any Restricted 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 (other than Indebtedness hereunder and excluding, for the avoidance of doubt, Indebtedness under the Prepetition Credit Agreement as long as enforcement of remedies thereunder is subject to the automatic stay of Section 362 of the Bankruptcy Code) 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 (other than, with respect to Indebtedness consisting of Swap Contracts, termination events or equivalent events pursuant to the terms of such Swap Contracts), 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; provided that this clause (e)(B) shall not apply to (x) secured Indebtedness that becomes due or as to which an offer to prepay is required to be made as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness and (y) any Indebtedness permitted to exist or be incurred under the terms of this Agreement that is required to be repurchased, prepaid, defeased or redeemed (or as to which an offer to repurchase, prepay, defease or redeem is required to be made) in connection with any asset sale event, casualty or condemnation event, change of control (without limiting the rights of the Agents and the Lenders under Section 8.01(j) below), excess cash flow or other customary provision in such Indebtedness giving rise to such requirement to offer or prepay in the absence of any default thereunder; provided, further, that such failure is unremedied and is not waived by the holders of such Indebtedness;

(f) Insolvency Proceedings, Etc. Other than the Chapter 11 Cases, Holdings, the U.S. Borrower or any of its Restricted Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, interim receiver, receiver and manager, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, interim receiver, receiver and manager, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed

without the application or consent of such Person and the appointment continues undischarged or unstayed for thirty (30) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for thirty (30) calendar days; or an order for relief is entered in any such proceeding; or

(g) Judgments. There is entered against any Loan Party or any Restricted 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 thirty (30) consecutive days after the entry thereof;

(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 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 or the Collateral Agent not taken by the Administrative Agent or the Collateral Agent or the satisfaction in full of all the Obligations and termination of the Aggregate Commitments, 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) subject in all respects to the Carve-Out, a material part of the Liens purported to be created by the Collateral Documents (subject to (x) the terms of the Collateral and Guarantee Requirement and (y) any Lien permitted by Section 7.01) cease to be perfected security interests other than (x) as a result of a release of Collateral permitted under Section 10.20, (y) solely as a result of the Administrative Agent's or the Collateral Agent's failure to (1) maintain possession of any stock certificates, promissory notes or other instruments actually delivered to it under the Loan Documents or (2) file Uniform Commercial Code continuation statements or (z) as to Collateral consisting of real property, to the extent that such real property is covered by a lender's title insurance policy and such insurer has not denied coverage;

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

(k) Bankruptcy Related Events of Default.

(i) other than the Carve Out, the failure by the Debtors to timely object to any administrative claim filed in the Chapter 11 Cases over \$1,000,000, or the settlement by the Debtors of any claim in any amount over \$1,000,000, without the prior written consent of the Required Lenders (which approval may be communicated via email from any of the Lender Advisors) (which consent shall constitute authorization under this Agreement);

(ii) the failure by the Borrowers or any Loan Party to pay one or more final post-petition judgments aggregating in excess of \$1,000,000 (to the extent not covered by insurance or indemnity from a third-party), which post-petition judgments are not stayed,

vacated, discharged, bonded pending appeal, or effectively waived or stayed for a period of 30 consecutive days;

(iii) the entry of an order by the Bankruptcy Court appointing, the filing of an application by any Debtor or any Debtor consenting to or supporting an application by any other Person, for an order seeking the appointment of, in either case without the prior written consent of the Required Lenders, an interim or permanent trustee in any Chapter 11 Case or the appointment of a receiver or an examiner under Section 1104 of the U.S. Bankruptcy Code in any Chapter 11 Case with expanded powers (beyond those set forth in Sections 1106(a)(3) and 1106(a)(4) of the U.S. Bankruptcy Code) to operate or manage the financial affairs, the business, or reorganization of the Debtors;

(iv) other than circumstances whereby the Lenders are paid the Obligations in full (except as provided in the RSA), the consummation of a sale of all or substantially all of the Debtors' assets pursuant to a sale under Section 363 of the U.S. Bankruptcy Code, a confirmed plan in the Chapter 11 Cases or otherwise or any Loan Party shall file a motion or other pleading or shall consent to or support a motion or other pleading filed by any other Person seeking any of the foregoing, in each case, without the prior written consent of the Required Lenders;

(v) subject to the Carve Out, the creation or incurrence by the Debtors of any claim that is senior to or *pari passu* with the Adequate Protection Superpriority Claims without the prior written consent of the Required Lenders;

(vi) the Debtors filing or supporting any motion, pleading, applications or adversary proceeding challenging the validity, enforceability, perfection, or priority of the claims under the Prepetition Credit Agreement or asserting or supporting any other cause of action against and/or with respect to any of the claims under the Prepetition Credit Agreement or any of the Prepetition Lenders, except as otherwise provided for in the DIP Order;

(vii) the conversion of any Chapter 11 Case of a Debtor from one under chapter 11 to one under chapter 7 of the U.S. Bankruptcy Code or any Debtor shall file a motion or other pleading or shall consent to or support a motion or other pleading filed by any other Person seeking the conversion of any Chapter 11 Case of a Debtor under Section 1112 of the U.S. Bankruptcy Code or otherwise

(viii) subject to the Carve Out, the payment of or granting adequate protection (except for Adequate Protection Payments) that rank senior to or *pari passu* with the Adequate Protection Payments with respect to any Prepetition Term Loans (other than as set forth in the DIP Order or any Approved Budget);

(ix) (i) the entry by the Bankruptcy Court of any order terminating the Debtors' exclusive periods to file a chapter 11 plan of reorganization or liquidation and solicit acceptances thereon under Section 1121 of the U.S. Bankruptcy Code or (ii) the expiration of any Loan Party's exclusive right to file a chapter 11 plan of reorganization or liquidation;

(x) the dismissal of any Chapter 11 Case which does not contain a provision for Discharge of Obligations, or if any Debtor shall file a motion or other pleading

seeking the dismissal of any Chapter 11 Case which does not contain a provision for the payment in full in cash of the Obligations under this Agreement,

(xi) the entry by the Bankruptcy Court of an order granting relief from or modifying the automatic stay of Section 362 of the U.S. Bankruptcy Code (x) to allow any creditor to execute upon or enforce a Lien on any Collateral which has a value in excess of \$500,000, or (y) with respect to any Lien of or the granting of any Lien on any Collateral to any state or local environmental or regulatory agency or authority which has a value in excess of \$500,000;

(xii) the filing of a motion or taking of any action by the Debtors in any Chapter 11 Case, or the entry by the Bankruptcy Court of any order in any Chapter 11 Case: (i) to obtain additional financing under Section 364(c) or (d) of the U.S. Bankruptcy Code not otherwise permitted pursuant to this Agreement or the DIP Order, as the case may be, except (x) as may be permitted by the Required Lenders and (y) to the extent that such new financing shall pay in full in cash the Obligations substantially concurrently with the incurrence thereof or (ii) except as provided in the DIP Order, to use cash collateral of the Agents or Lenders under Section 363(c) of the U.S. Bankruptcy Code or any equivalent provision of relevant applicable law without the prior written consent of the Required Lenders;

(xiii) the filing of a motion or taking of any action by the Debtors in any Chapter 11 Case seeking the entry by the Bankruptcy Court of any order in any Chapter 11 Case, or the entry by the Bankruptcy Court of an order in any Chapter 11 Case, granting any Lien that is pari passu or senior to the Liens on the Collateral securing the Obligations, other than Liens expressly permitted under this Agreement or the DIP Order (including the Carve-Out);

(xiv) other than the Carve-Out, the filing of a motion or taking of any action by the Debtors in any Chapter 11 Case seeking an order, or the entry by the Bankruptcy Court of an order in any Chapter 11 Case, amending, supplementing, staying, vacating or otherwise modifying any Loan Document, the DIP Order, or the Cash Management Order, in each case, in a manner that is adverse to the Lenders, in their capacities as such, without the prior written consent of the Required Lenders;

(xv) subject to the Carve-Out and except as otherwise provided herein, the filing of a motion or taking of any action by the Debtors in any Chapter 11 Case seeking the entry by the Bankruptcy Court of an order in any Chapter 11 Case, or the entry by the Bankruptcy Court of an order in any Chapter 11 Case, avoiding or requiring repayment by any Lender of any portion of the payments made by any Debtor on account of the Obligations owing under this Agreement or the other Loan Documents;

(xvi) the filing of a motion by any Debtor requesting, or the entry of any order by the Bankruptcy Court granting, any superpriority claim which is senior or pari passu with the Lenders' claims or with the claims of the Prepetition Lenders under the Prepetition Loan Documents;

(xvii) the filing of a motion or the taking of any action in any Chapter 11 Case by any Debtor seeking the entry of an order by the Bankruptcy Court, or the entry by the Bankruptcy Court of an order in any Chapter 11 Case, precluding the Administrative

Agent or the Prepetition Administrative Agent to have the right to or be permitted to “credit bid” except as permitted in the RSA;

(xviii) any attempt by any Loan Party to reduce, set off or subordinate the Obligations or the Liens securing such Obligations to any other Indebtedness;

(xix) the filing by any Loan Party of any chapter 11 plan or disclosure statement attendant thereto, or any amendment to such plan or disclosure statement, that is not an Acceptable Plan or otherwise consistent with the RSA;

(xx) (i) the filing by any of the Debtors of any motion, objection, application or adversary proceeding challenging the validity, enforceability, perfection or priority of, or seeking avoidance, subordination or characterization of, any portion of the Obligations (as defined in the Prepetition Credit Agreement), and/or the liens securing the Obligations (as defined in the Prepetition Credit Agreement) or the Obligations, or asserting any other claim or cause of action against and/or with respect to the Obligations (as defined in the Prepetition Credit Agreement) or (ii) the entry of an order by the Bankruptcy Court providing relief that is reasonably likely to materially and adversely impact the interests of any Consenting Stakeholder (as defined in the RSA), the Prepetition Agent or the Administrative Agent with respect to any of the foregoing claims, causes of action or proceedings, but excluding preliminary or final relief granting standing to any other party to prosecute such claims, causes of action or proceeding;

(xxi) subject to the entry of the Final DIP Order and to the extent set forth therein, an order in the Chapter 11 Cases shall be entered (i) charging any of the Collateral under Section 506(c) of the U.S. Bankruptcy Code against the Administrative Agent and the Secured Parties or (ii) limiting the extension under Section 552(b) of the U.S. Bankruptcy Code of the Liens of the Prepetition Agent on the Collateral to any proceeds, products, offspring, or profits of the Collateral acquired by any Loan Party after the Petition Date (or granting any other relief under section 552(b) of the U.S. Bankruptcy Code);

(xxii) the acceptance by any Loan Party of any bid that is not an Acceptable Bid without the prior written consent of the Required Lenders;

(xxiii) a default under the RSA by any of the Loan Parties shall have occurred and be continuing (with all applicable grace periods having expired); and

(xxiv) the RSA is terminated for any reason.

Section 8.02. Remedies Upon Event of Default.

(a) Subject to the terms and conditions of the DIP Order and the Carve-Out, if any Event of Default occurs and is continuing (other than an Event of Default under Section 8.01(b)(ii) unless the conditions of the second proviso contained therein have been satisfied), the Administrative Agent may and, at the request of the Required Lenders, shall take any or all of the following actions:

(i) [Reserved];

(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;

(iii) declare a restriction or termination of the Loan Parties' ability to use cash collateral; and

(iv) 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.

Section 8.03. [Reserved].

Section 8.04. Application of Funds. Subject to the Carve-Out, any amount received by the Administrative Agent or the Collateral Agent from any Loan Party (or from proceeds of any Collateral) following any acceleration of the Obligations under this Agreement, in each case that is continuing, shall be applied as set forth in Section 2.12(i).

ARTICLE IX

ADMINISTRATIVE AGENT AND OTHER AGENTS

Section 9.01. Appointment and Authorization of Agents.

(a) (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 (including, without limitation, the execution of any other Loan Documents) 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) [Reserved].

(c) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Secured Parties (in its capacities as a Lender) 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 Secured Party 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. In furtherance of the foregoing, the Collateral Agent shall have all of the rights, privileges, immunities and indemnities of the Administrative Agent for such purpose. References in Article IX to the Administrative Agent shall include the Collateral Agent for such purpose.

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 rely on 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 or willful misconduct by the Administrative Agent.

Section 9.03. Liability of Agents.

(a) 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 or willful misconduct, 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 the sufficiency of the Collateral 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.

(b) Neither Agent shall be liable for any action omitted to be taken by it by reason of the lack of direction or instruction for such action (including, without limitation, for refusing to exercise discretion or for withholding its consent in the absence of receipt of, or resulting from a failure, delay or refusal on the part of any Lender to provide, written instructions to exercise such direction or grant such consent from any such Lender, as applicable). Neither Agent shall have any liability for any failure, inability, unwillingness on the part of any Lender or Loan Party to provide accurate and complete information on a timely basis to such Agent, or otherwise on the part of any such party to comply with the terms of this Agreement, and shall not have any liability for any inaccuracy or error in the performance or observance on such Agent’s part of any of its duties hereunder that is caused by or results from any such inaccurate, incomplete or untimely information received by it, or other failure on the part of any such other party to comply with the terms hereof.

(c) For purposes of clarity, and without limiting any rights, protections, immunities or indemnities afforded to either Agent hereunder (including without limitation this ARTICLE IX), phrases such as “satisfactory to the Administrative Agent,” “approved by the Administrative Agent,”

“acceptable to the Administrative Agent,” “as determined by the Administrative Agent,” “in the Administrative Agent’s discretion,” “selected by the Administrative Agent,” “elected by the Administrative Agent,” “requested by the Administrative Agent,” and phrases of similar import that authorize and permit an Agent to approve, disapprove, determine, act or decline to act in its discretion shall be subject to such Agent receiving written direction from the Required Lenders (or such other number or percentage of the Lenders as expressly required hereunder or under the other Loan Documents) to take such action or to exercise such rights,

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. The Agents shall have no obligation whatsoever to the Lenders or to any other Person to assure that the Collateral exists or is owned by any Loan Party or is cared for, protected or insured or that the Liens granted to an Agent under the Loan Documents or pursuant hereto have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise or to continue exercising at all or in any manner or under any duty of care, disclosure or fidelity any of the rights, authorities and powers granted or available to each Agent in this Section 9.04 or in any of the Collateral Documents. 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 a 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 Borrowers 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 Borrowers 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 or willful misconduct, 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 or willful misconduct 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 Borrowers' 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. WSFS 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 WSFS were not the Administrative Agent hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, WSFS 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, WSFS 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 WSFS in its individual capacity.

Section 9.09. Successor Agents.

(a) The Administrative Agent may resign as the Administrative Agent and Collateral 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 Borrowers and the Required Lenders. If the Administrative Agent resigns or is removed under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which appointment of a successor agent shall require the consent of the Borrower at all times other than during the existence of an Event of Default under Section 8.01(f) or (k) (which consent of the Borrowers shall not be unreasonably withheld or delayed). If no successor agent is appointed prior to the Closing Date of the resignation (but not removal) of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Borrower, a successor agent from among the Lenders. 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 Collateral 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 and Collateral 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 (i) while it was the Administrative Agent under this Agreement and (ii) after such resignation or removal for as long as the Administrative Agent continues to act in any capacity hereunder or under the other Loan Documents, including (a) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Lenders and (b) in respect of any actions taken in connection with transferring the agency to any successor Administrative Agent. If no successor agent has accepted appointment as the Administrative Agent and Collateral Agent by the date which is 30 days following the retiring (but not removed) Administrative Agent’s and Collateral Agent’s notice of resignation, the retiring Administrative Agent’s and Collateral 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. 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 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.

(b) The Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Administrative Agent remove such Person as Administrative Agent and appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have

accepted such appointment within 30 days (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

Section 9.10. Administrative Agent May File Proofs of Claim; Credit Bidding. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan 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 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 2.04(e) and (f), 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.

To the extent in accordance with the provisions of the Loan Documents, the Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (b) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized to form one or more

acquisition vehicles to make a bid, (ii) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly), by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a) through (f) of Section 10.01 of this Agreement, (iii) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action, and (iv) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

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 or any Collateral Document.

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; Arrangers and Managers. None of the Lenders or other Persons identified on the facing page or signature pages of this Agreement as a "syndication agent," "joint lead arranger," or "joint bookrunner" shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, 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 (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), such Lender shall indemnify and hold harmless the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including any penalties, additions to Tax or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket 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, this Section 9.13 shall not limit or expand the obligations of the Borrowers or any Guarantor under Section 3.01 or any other provision of this Agreement. For the avoidance of doubt, this Section 9.13 shall not limit or expand the obligations of the Borrowers 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. Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and its respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrowers or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans or the Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of subsections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless subclause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has not provided another representation, warranty and covenant as provided in subclause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and its respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrowers or any other Loan Party, that:

(i) none of the Administrative Agent or any of its respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto),

(ii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is independent (within the meaning of 29 CFR § 2510.3-21) and is a bank, an insurance carrier, an investment adviser, a broker-dealer or other person that holds, or has under management or control, total assets of at least \$50 million, in each case as described in 29 CFR § 2510.3-21(c)(1)(i)(A)-(E),

(iii) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the Obligations),

(iv) the Person making the investment decision on behalf of such Lender with respect to the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement is a fiduciary under ERISA or the Code, or both, with respect to the Loans, the Commitments and this Agreement and is responsible for exercising independent judgment in evaluating the transactions hereunder, and

(v) no fee or other compensation is being paid directly to the Administrative Agent or any of its respective Affiliates for investment advice (as opposed to other services) in connection with the Loans, the Commitments or this Agreement.

(c) The Administrative Agent hereby informs the Lenders that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Commitments and this Agreement, (ii) may recognize a gain if it extended the Loans or the Commitments for an amount less than the amount being paid for an interest in the Loans or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

Section 9.17. Erroneous Payments.

(a) If the Administrative Agent notifies a Lender, or any Person who has received funds on behalf of a Lender (any such Lender or other recipient, a “Payment Recipient”) that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an “*Erroneous Payment*”) and demands the return of such Erroneous Payment (or a portion thereof) (provided, that, without limited any other rights or remedies (whether at law or in equity), the Administrative Agent may not make any such demand under this clause (a) with respect to an Erroneous Payment unless such demand is made within 15 Business Days of the date of receipt of such Erroneous Payment by the applicable payment receipt), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Lender shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received). A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Lender, or any Person who has received funds on behalf of such Lender, hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

(i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment;

(ii) such Lender shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 9.18(b); and

(iii) upon demand from the Administrative Agent, it shall promptly, but in no event later than two Business Day thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Lender to the date such amount is repaid to the Administrative Agent at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in

accordance with banking industry rules on interbank compensation from time to time in effect.

(c) Each Lender hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Lender from any source, against any amount due to the Administrative Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (a), from any Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an “Erroneous Payment Return Deficiency”), upon the Administrative Agent’s notice to such Lender at any time, (i) such Lender shall be deemed to have assigned its Loans (but not its Commitments) with respect to which such Erroneous Payment was made (the “Erroneous Payment Impacted Class”) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the “Erroneous Payment Deficiency Assignment”) at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment and Assumption (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to a Platform as to which the Administrative Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender shall deliver any Term Notes evidencing such Loans to the Borrower or the Administrative Agent, (ii) the Administrative Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment in accordance with Section 9.04 and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender and such Commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Lender under the Loan Documents with respect to each Erroneous Payment Return Deficiency (the “Erroneous Payment Subrogation Rights”).

(e) The Borrower and each other Loan Party hereby agrees that (x) in the event of an Erroneous Payment (or portion thereof) is not recovered from any Lender that has received such Erroneous Payment (or portion thereof) for any reason (and without limiting the Administrative Agent’s rights and remedies under this Article VIX), the Administrative Agent shall be subrogated to all the rights

of such Lender with respect to such amount and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owned by the Borrower or any other Loan Party.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine.

(g) Each party’s obligations, agreements and waivers under this Section 9.18 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender, and the termination of the Commitments.

Section 9.18. Parallel Debt.

In this Section “**Corresponding Liabilities**” means the Obligations of a Loan Party which is a party hereto, excluding its Parallel Liability.

“**Parallel Liability**” means an undertaking by a Loan Party which is a party hereto pursuant to this Section 9.18.

(a) Each Loan Party which is a party to this Agreement irrevocably and unconditionally undertakes to pay to the Collateral Agent an amount equal to the aggregate amount of its Corresponding Liabilities (as these may exist from time to time).

(b) The parties to this Agreement agree that:

(i) a Loan Party’s Parallel Liability is due and payable at the same time as, for the same amount of and in the same currency as its Corresponding Liabilities;

(ii) a Loan Party’s Parallel Liability is decreased to the extent that its Corresponding Liabilities have been irrevocably paid or discharged and its Corresponding Liabilities are decreased to the extent that its Parallel Liability has been irrevocably paid or discharged;

(iii) a Loan Party’s Parallel Liability is independent and separate from, and without prejudice to, its Corresponding Liabilities, and constitutes a single obligation of that Loan Party to the Collateral Agent (even though that Loan Party may owe more than one Corresponding Liability to the Secured Parties under the Loan Documents) and an independent and separate claim of the Collateral Agent to receive payment of that Parallel Liability (in its capacity as the independent and separate creditor of that Parallel Liability and not as a co-creditor in respect of the Corresponding Liabilities); and

(iv) for purposes of this Clause 9.18, the Collateral Agent acts in its own name and not as agent, representative or trustee of the Loan Parties and accordingly holds neither its claim resulting from a Parallel Liability nor any Lien securing a Parallel Liability on trust.

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 Borrowers 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 Borrowers 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 a 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 a Borrower, may extend the maturity date of any Term 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, or result in a currency redenomination, any Loan (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 (including any prepayment penalty) or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby (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 Borrowers 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";

(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;

(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;

(g) amend, modify or waive any pro rata sharing provision set forth in Section 2.13 or any other provision of the Loan Documents requiring pro rata application of payments or recoveries, Section 2.12 or Section 8.04 without the written consent of each Lender directly and adversely affected thereby;

(h) incur any other Indebtedness without the written consent of each Lender directly and adversely affected thereby with respect to which the Obligations would be subordinated in right of payment or Liens on the Collateral securing the Obligations would be subordinated (any such other Indebtedness to which the Obligations are subordinated in right of payment or such Liens securing any of the Obligations are subordinated, "Specified Indebtedness"), unless each adversely affected Lender has been offered a bona fide opportunity to fund or otherwise provide its pro rata share (based on the principal amount of Obligations that are adversely affected thereby held by each Lender) of the Specified Indebtedness on the same terms (other than bona fide backstop fees and reimbursement of counsel fees and other expenses in connection with the negotiation of the terms of such transaction; such fees and expenses, "Ancillary Fees") as offered to all other providers (or their Affiliates) of the Specified Indebtedness and to the extent such adversely affected Lender decides to participate in the Specified Indebtedness, receive its pro rata share of the fees and any other similar benefit (other than Ancillary Fees) of the Specified Indebtedness afforded to the providers of the Specified Indebtedness (or any of their Affiliates) in connection with providing the Specified Indebtedness

(i) [reserved];

(j) amend, modify or waive any provision of the Loan Documents in a manner that would permit any Subsidiary to be designated as an "Unrestricted Subsidiary" or permit the transfer of any assets (including by Disposition, Investment or Restricted Payments) to "Unrestricted Subsidiaries" or otherwise permit the creation or existence of, or transfer of any assets (including by disposition, Investment or Restricted Payments) to, a subsidiary otherwise not subject to the provisions of the Loan Documents (it being acknowledged that no Subsidiary is an "Unrestricted Subsidiary" as of the Closing Date) without the written consent of each adversely affected Lender;

(k) amend, modify or waive any provision of the Loan Documents in a manner that would permit transfers of Material Property (whether pursuant to a sale, lease, license, transfer, Investment, Restricted Payment, dividend or otherwise or relating to the exclusive rights thereto) to any Subsidiary that is not a Guarantor (including for the avoidance of doubt, (I) the last paragraph of Sections 7.02, 7.03, 7.04, 7.06 or (II) the definition of "Material Property") without the written consent of each adversely affected Lender;

(l) amend or modify the definition of "Collateral and Guarantee Requirement" without the written consent of each Lender directly and adversely affected thereby;

(m) to the extent not otherwise permitted by this Agreement as of the Closing Date, authorize additional Indebtedness that would be issued under the Loan Documents for the purpose of influencing voting thresholds without the written consent of each Lender adversely affected thereby;

(n) amend or modify this Agreement or the other Loan Documents in a manner that disproportionately and adversely affects one or more Classes of Loans or Commitments relative to any other Class or Classes of Loans or Commitments without the consent of each Lender of such disproportionately and adversely affected Class;

(o) amend, modify or waive any provision of the Credit Documents to allow for purchases of any Loans (by open market purchase or through other assignments) by the Borrowers or any of its Subsidiaries or other Affiliates, in each case using consideration other than cash without the written consent of all adversely affected Lenders, unless all adversely affected Lenders are offered the ability to participate in such transaction on a pro rata basis, on the same terms; or

(p) amend, modify or waive the final sentence of Section 10.20(a) without the written consent of each Lender adversely affected thereby;

and provided, further, that 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 anything in this Agreement or any Collateral Document to the contrary, the Administrative Agent (acting at the Direction of the Required Lenders) 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 U.S. Borrower and the Restricted 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 Borrowers and the Administrative Agent (acting at the Direction of the Required Lenders) to (x) cure any ambiguity, omission, mistake, defect or inconsistency (as reasonably determined by the Administrative Agent (acting at the Direction of the Required Lenders) and the Borrower) and (y) effect administrative changes of a technical or immaterial nature.

Notwithstanding anything to the contrary contained in this Section 10.01, any guarantees, collateral security documents and related documents executed by Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent (acting at the Direction of the Required Lenders) and may be, together with this Agreement, amended, supplemented and waived with the consent of the Administrative Agent (acting at the Direction of the Required Lenders) at the request of a 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 Borrowers, the Administrative Agent, 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 Borrowers and the Administrative Agent.

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 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) 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.

(c) 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 Borrowers 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.

(d) Notice to other Loan Parties. The Borrowers agree that notices to be given to any other Loan Party under this Agreement or any other Loan Document may be given to the U.S. 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 Borrowers agree (a) if the Closing Date occurs, to pay or reimburse the Administrative Agent and the Collateral Agent for all reasonable and documented or invoiced out-of-pocket costs and expenses, including any and all recording and filing fees, const and expenses incurred pursuant to any Collateral Document, associated with the syndication of the Term 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 Attorney Costs of one primary counsel (and a single local counsel in each relevant jurisdiction or otherwise retained with the Borrower's consent (such consent not to be unreasonably withheld, conditioned or delayed)), (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 Attorney Costs of one firm or counsel to the Administrative Agent and the Collateral Agent and, to the extent required, one firm or local counsel in each relevant local jurisdiction or otherwise retained with the Borrower's consent (such consent not to be unreasonably withheld, conditioned or delayed), which may include a single special counsel acting in multiple jurisdictions) and (c) to pay or reimburse the Lenders for all their reasonable and documented out of pocket costs and expenses (without duplication) incurred in connection with the development, preparation, execution and delivery of, and any amendment, supplement, modification to, waiver, enforcement and preservation of rights under this Agreement and the other Loan Documents and any other documents in connection herewith or therewith, and the consummation and administration of the transactions contemplated hereby and thereby, including the reasonable fees, disbursements and other charges of one firm of counsel to the Lenders taken as a whole (it being understood such counsel shall be Gibson, Dunn & Crutcher LLP), and, to the extent required one firm of 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 charges and fees related thereto, and other reasonable and documented or invoiced out-of-pocket expenses incurred by the Administrative Agent or the Collateral Agent. 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 Borrowers of an invoice relating thereto setting forth such expenses in reasonable detail.

Section 10.05. Indemnification by the Borrowers. The Borrowers shall indemnify and hold harmless each Agent, each Lender (without duplication), each Backstop Party (whether or not such Backstop Party is a Lender at such time) 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, (x) reasonable Attorney Costs of one firm of counsel for each Agent and its respective Affiliates, directors, officers, employees, agents, advisors, and other representatives (the "Agent's Counsel"), and (y) reasonable Attorney Costs of one firm of counsel for the Lenders and their respective Affiliates, directors, officers, employees, agents, advisors, and other representatives (the "Lenders' Counsel"), and (z) if necessary, one firm of local counsel in each appropriate jurisdiction (which may include a single special counsel acting in multiple jurisdictions) for each of Agent and the Lenders, as applicable (and, in the case of an actual or perceived conflict of interest, where the Indemnitee affected by such conflict informs the Borrowers of such conflict and thereafter retains its own counsel, of such other firm of counsel for such affected Indemnitee)) (collectively, the "Losses") of any such Indemnitee 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 Borrowers, 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, at, under or from any property currently or formerly owned or operated by the U.S. Borrower or any Restricted Subsidiary or any other liability arising under Environmental Law relating in any way to the U.S. Borrower or any Restricted Subsidiary; provided that no Indemnitee will be indemnified for any Losses or related expenses to the extent it has resulted from (x) the gross negligence, bad faith or willful misconduct of such Indemnitee 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), (y) a material breach of the obligations under the Loan Documents of such Indemnitee or any of such Indemnitee’s 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) or (z) any claim, litigation, investigation or other proceeding (other than a claim, litigation, investigation or other proceeding against any Agent or any Person acting in a similar capacity, in each case, acting pursuant to the Loan Documents or in its capacity as such or of any of its Affiliates or its or their respective officers, directors, employees, agents, advisors and other representatives and the successors of each of the foregoing) solely between or among Indemnitees that does not arise from any act or omission by the Borrowers or any of their respective Affiliates; provided, further, that the Administrative Agent and the Collateral Agent, to the extent fulfilling their respective roles as an agent or arranger under the Facilities and in their capacities as such and the Backstop Parties and their related Indemnitees, 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 (x) or (y) of the immediately preceding proviso apply to such person at such time. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems 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 Indemnitee or any of such Indemnitee’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 Indemnitee 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 Indemnitee shall promptly refund such amount to the extent that there is a final judicial or arbitral determination that such Indemnitee 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 Losses 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 Borrowers 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 Borrowers 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, 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 (such consent not to be unreasonably withheld or delayed) of:

- (A) [reserved]; and
- (B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Term Loan to another Lender, an Affiliate of a Lender, an Approved Fund or a Related 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 a Related Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, 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 (in the case of a Term Loan) unless the Administrative Agent otherwise consents; provided that (1) [reserved] and (2) such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds or Related 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 provided that for the purposes of this provision, Disqualified Lenders shall only be deemed to be Disqualified Lenders if a list of Disqualified Lenders has been made available to all Lenders and prospective Assignees by the Borrowers; provided, further, that the Administrative Agent shall have no liability in respect of any mistaken assignment to a Disqualified Lender; and

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.

(iii) Notwithstanding anything herein to the contrary, the consent of the Administrative Agent will not be required to effectuate the Syndication or any initial assignments by the Fronting Lender.

(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, from and after the Closing 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 Closing Date of such assignment). Upon request, and the surrender by the assigning Lender of its Note (if any), the Borrowers(at their 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 obligations.

(d) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrowers, 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, owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent demonstrable error, and the Borrowers, 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 Borrowers, 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 Borrowers or the Administrative Agent, sell participations to any Person (other than a natural person or any Disqualified Lender; provided that for the purposes of this provision, Disqualified Lenders shall only be deemed to be Disqualified Lenders if a list of Disqualified Lenders has been made available to all Lenders by the Borrowers) (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 Borrowers, 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 Borrowers agree 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), it being understood that any forms required to be delivered pursuant to Section 3.01(f) or (g) shall be delivered to the participating Lender) 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 Borrowers, 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 or its other obligations under any Loan Document), except to the extent that such disclosure is necessary to establish that such Commitment, Loan 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 demonstrable 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 Borrowers (including, without limitation, that in no event shall any such Lender be a fiduciary of the Borrowers for any purpose).

(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 Borrowers’ 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.

(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 Borrowers (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 Borrowers 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 Borrowers 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.

(j) Notwithstanding anything to the contrary contained herein, (x) any Lender may, at any time, assign all or a portion of its rights and obligations under this Agreement in respect of its Term Loans to Holdings, the Borrowers or any Subsidiary and (y) Holdings, the Borrowers and any Subsidiary may, from time to time, purchase or prepay Term Loans, in each case, on a non-pro rata basis, solely for cash consideration, through Dutch auction procedures open to all applicable Lenders on a pro rata basis in accordance with customary procedures to be agreed between Holdings or the Borrowers and the Agent; provided that, any Loans or Commitments acquired by Holdings, the Borrowers or any other Subsidiary shall be retired and cancelled promptly upon the acquisition thereof; provided further, Holdings, the Borrowers, their Subsidiaries and their respective Affiliates may not purchase or acquire any Term Loans or Commitments hereunder other than as specified in this clause (j);

(k) [Reserved];

(l) Upon any contribution of Term Loans to the U.S. Borrower or any Restricted Subsidiary and upon any purchase of Term Loans pursuant to Section 10.07(j), (A) the aggregate

principal amount (calculated on the face amount thereof) of such Term Loans shall automatically be cancelled and retired by the Borrowers on the date of such contribution or purchase (and, if requested by the Administrative Agent, with respect to a contribution of Term Loans, any applicable contributing Lender shall execute and deliver to the Administrative Agent an Assignment and Assumption, or such other form as may be reasonably requested by the Administrative Agent, in respect thereof pursuant to which the respective Lender assigns its interest in such Loans to the Borrowers for immediate cancellation) and (B) the Administrative Agent shall record such cancellation or retirement in the Register.

(m) [Reserved].

(n) If any assignment or participation is made to any Disqualified Lender without the Borrowers' prior written consent in violation of Section 10.07(b)(ii)(D) above, the Borrowers may, at its sole expense and effort, upon notice to the applicable Disqualified Lender and the Administrative Agent, (A) [reserved], (B) in the case of outstanding Term Loans held by Disqualified Lenders, purchase or prepay such Term Loan by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Lender paid to acquire such Term Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder and/or (C) require such Disqualified Lender to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 10.07), all of its interest, rights and obligations under this Agreement to one or more Eligible Assignees at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Lender paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder.

(o) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Lenders (A) will not (x) have the right to receive information, reports or other materials provided to Lenders by the Borrowers, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders and the Administrative Agent, or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Lender will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Lenders consented to such matter, and (y) for purposes of voting on any plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws, each Disqualified Lender party hereto hereby agrees (1) not to vote on such plan, (2) if such Disqualified Lender does vote on such plan notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such plan in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other Debtor Relief Laws) and (3) not to contest any request by any party for a determination by the Bankruptcy court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

Section 10.08. Confidentiality. Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information and to not use or 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

(including any self-regulatory authority, such as the National Association of Insurance Commissioners) (in which case the Agents and the Lenders agree (except with respect to any audit or examination conducted by bank accountants or regulatory (or self-regulatory) authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable Law, to inform the Borrowers 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 (or self-regulatory) authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable Law, to inform the Borrowers promptly thereof prior to disclosure) (including to any pledgee referred to in Section 10.07(g)); (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 Borrowers), or Section 10.07(i), counterparty to a Swap Contract, Eligible Assignee of or Participant in, or any prospective counterparty to a Swap Contract, Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement; (f) with the written consent of the Borrowers; (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 U.S. 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 Borrowers, 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 (or self-regulatory) authority exercising examination or regulatory authority), to the extent practicable and not prohibited by applicable Law, to inform the Borrowers promptly thereof prior to disclosure). In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments. 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 U.S. 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, provided that, in the case of information received from the U.S. Borrower or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential.

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 is authorized at any time and from time to time, without prior notice to the Borrowers or any other Loan Party, any such notice being waived by the Borrowers (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, 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 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 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. Notwithstanding anything to the contrary contained herein, no Lender shall have a right to set off and apply any deposits held or other Indebtedness owing by such Lender, as the case may be, to or for the credit or the account of any Subsidiary of a Loan Party which is not a "United States person" within the meaning of Section 7701(a)(30) of the Code unless such Subsidiary is not a direct or indirect Subsidiary of the U.S. Borrower. Each Lender agrees promptly to notify the Borrowers and the Administrative Agent after any such set off and application made by such Lender, 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 under this Section 10.09 are in addition to other rights and remedies (including other rights of setoff) that the Administrative Agent, such Lender 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.

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.

(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 COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF SUCH STATE (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 BORROWERS, HOLDINGS, EACH AGENT AND EACH LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THOSE COURTS. THE BORROWERS, 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.

(c) THE BORROWERS IRREVOCABLY CONSENT TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING TO THE U.S. 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 Borrowers and Holdings and the Administrative Agent shall have been notified by each Lender that each such Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrowers, each Agent and each Lender and their respective successors and assigns, except that the Borrowers 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 Borrowers 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 Borrowers in the Agreement Currency, the Borrowers agree, 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 Borrowers (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 provision 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 Borrowers that, pursuant to the requirements of the USA PATRIOT Act, it is or may be required to obtain, verify and record information that identifies each Borrower, which information includes the name and address of such Borrower and other information that will allow such Lender to identify such Borrower in accordance with the USA PATRIOT Act.

Section 10.20. Release of Collateral and Guarantee Obligations; Subordination of Liens.

(a) The Lenders and the other Secured Parties hereby irrevocably agree that the Liens granted to the Collateral Agent 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 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 Subsidiary Guarantors shall be released from the Guarantees upon consummation of any transaction permitted hereunder resulting in such Subsidiary ceasing to constitute a Restricted Subsidiary solely to the extent such Subsidiary ceasing to constitute a Restricted 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. Notwithstanding anything in the Loan Documents to the contrary, no Guarantor will be released from its guarantee solely as a result of ceasing to be wholly-owned unless (i) at the time such Guarantor ceases to be wholly-owned, the primary purpose of such transaction was not to evade the guarantee requirements, (ii) the transaction by which such Guarantor ceases to be wholly-owned was consummated on an arms' length basis with an unaffiliated third party and (iii) such transaction otherwise complies with the terms of Section 7.02 (with the Borrowers being deemed to have made an Investment in such resulting non-Guarantor Subsidiary, and such transaction constitutes an Investment permitted pursuant to Section 7.02).

(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 and all Commitments have been terminated, upon request of the Borrowers, 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 or 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 a 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, a 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 a 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. Electronic Execution of Assignments and Certain Other Documents.

The words "execution," "execute," "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, amendments or other Committed Loan Notices, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the

Administrative Agent, 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; provided that notwithstanding anything contained herein to the contrary the Administrative Agent is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it.

Section 10.22. Nature of Obligations of the Borrowers; Joint and Several.

(a) Notwithstanding anything to the contrary contained elsewhere in this Agreement, it is understood and agreed by the various parties to this Agreement that all of the Borrowers' Obligations to repay principal of, interest on, and all other amounts with respect to, all Loans and all other Obligations of the Borrowers pursuant to this Agreement (including, without limitation, all fees, indemnities, taxes and other Obligations in connection therewith or in connection with the related Commitments) shall constitute the joint and several obligations of each Borrower. In addition to the direct (and joint and several) obligations of the Borrowers with respect to the Obligations as described above, all such Obligations of the Borrowers shall be guaranteed pursuant to, and in accordance with the terms of, the Guarantees.

(b) The obligations of each Borrower with respect to the Borrowers' Obligations are independent of the obligations of any other Borrower or any other Guarantor under its guaranty of such Borrower's Obligations, and a separate action or actions may be brought and prosecuted against each Borrower, whether or not any other Borrower or any other Guarantor is joined in any such action or actions. Each Borrower waives, to the fullest extent permitted by law, the benefit of any statute of limitations affecting its liability hereunder or the enforcement thereof. Any payment by any Borrower or other circumstance which operates to toll any statute of limitations as to any Borrower shall, to the fullest extent permitted by law, operate to toll the statute of limitations as to each Borrower.

(c) Each Borrower authorizes the Administrative Agent and the Lenders without notice or demand (except as shall be required by the Loan Documents and applicable statute that cannot be waived), and without affecting or impairing its liability hereunder, from time to time to:

(i) exercise or refrain from exercising any rights against any other Borrower or any other Guarantor or others or otherwise act or refrain from acting;

(ii) settle or compromise any of the Borrowers' Obligations of any such or other Borrower, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any liability (whether due or not) of any such or other Borrower to its creditors other than the Lenders;

(iii) apply any sums paid by any other Borrower or any other Person, howsoever realized or otherwise received to or for the account of any or such other Borrower or any other Person to any liability or liabilities of any or such other Borrower or other Person regardless of what liability or liabilities of such other Borrower or such other Person remain unpaid; and/or

(iv) consent to or waive any breach of, or act, omission or default under, this Agreement, the other Loan Documents or any of the instruments or agreements referred to herein, or otherwise, by any such or other Borrower or any such or other Person.

(d) It is not necessary for the Administrative Agent or any Lender to inquire into the capacity or powers of any Borrower or any of its Subsidiaries or the officers, directors, members, partners or agents acting or purporting to act on its behalf, and any Borrower's Obligations made or created in reliance upon the professed exercise of such powers shall constitute the joint and several obligations of the Borrowers hereunder.

(e) Each Borrower agrees that to the extent that any Borrower shall have paid more than its proportionate share of any payments made hereunder (including by way of set-off rights being exercised against it), such Borrower shall be entitled to seek and receive contribution from and against any other Borrower hereunder who has not paid its proportionate share of such payments. Each Borrower's right of contribution shall be subject to the terms and conditions of the remainder of this Section 10.22. This provision shall in no respect limit the obligations and liabilities of any Borrower to the Administrative Agent, the Lenders and the other Secured Parties, and each Borrower shall remain liable to Administrative Agent, the Lenders and the other Secured Parties up to the maximum liability of such Borrower hereunder.

(f) Until the Latest Maturity Date, no Borrower shall have any rights of contribution or subrogation with respect to any other Borrower as a result of payments made by it hereunder.

(g) Each Borrower waives any right to require the Administrative Agent or the other Lenders to (i) proceed against any other Borrower, any other Guarantor or any other party, (ii) proceed against or exhaust any security held from any Borrower, any Guarantor or any other party or (iii) pursue any other remedy in the Administrative Agent's or the Lenders' power whatsoever. Each Borrower waives any defense based on or arising out of suretyship or any impairment of security held from any Borrower, any Guarantor or any other party or on or arising out of any defense of any such or other Borrower, any such or other Guarantor or any other party other than payment in full in cash of the Obligations of the Loan Parties, including, without limitation, any defense based on or arising out of the disability of any such or other Borrower, any such or other Guarantor or any other party, or the unenforceability of the Obligations of the Borrowers or any part thereof from any cause, or the cessation from any cause of the liability of any such or other Borrower, in each case other than as a result of the payment in full in cash of the Obligations of the Borrowers.

(h) For the avoidance of doubt, the Borrowers shall have joint and several liability in respect of all Obligations, without regard to any defense (other than the defense that payment in full has been made), setoff or counterclaim which may at any time be available to or be asserted by any other Loan Party against any Secured Party, or by any other circumstance whatsoever (with or without notice to or knowledge of any Borrower) which constitutes, or might be construed to constitute, an equitable or legal discharge of any Borrower's liability hereunder, in bankruptcy or in any other instance, and the Obligations under the Loan Documents of the Borrowers shall not be conditioned or contingent upon the pursuit by any Secured Party or any other person at any time of any right or remedy against any Borrower or against any other person which may be or become liable in respect of all or any part of the Obligations or against any Collateral or Guarantee therefor or right of offset with respect thereto. The Borrowers hereby acknowledge and agree that this Agreement and the other Loan Documents is the independent and several obligation of each Borrower (regardless of which Borrower shall have delivered a request for borrowings under Section 2.02) and may be enforced against each Borrower separately, whether or not enforcement of any right or remedy hereunder has been sought against any other Borrower. Each Borrower hereby expressly waives, with respect to any Credit Extension made to any other Borrower hereunder and any of the amounts owing hereunder by any other Loan Party in respect of any Credit Extension, diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that any Secured Party exhaust any right, power or remedy or proceed against any other Loan Party under this Agreement, any other Loan Document or any other agreement or instrument referred to herein or against any other person under any other guarantee of, or security for, any of such amounts owing hereunder.

(i) The Dutch Borrower hereby appoints and designates the U.S. Borrower as its representative (the “Borrower Representative”) and the U.S. Borrower hereby accepts such appointment and designation. As the Borrower Representative, the U.S. Borrower is authorized to act as agent, attorney-in-fact and representative of the Dutch Borrower for the purposes of issuing notices of borrowings, conversions and continuations of Loans and similar notices, giving instructions with respect to the disbursement of the proceeds of the Loans, electing interest rate options, giving and receiving all other notices and consents under the Loan Documents, making and taking all other actions (including in respect of compliance with covenants) on behalf of the Dutch Borrower under the Loan Documents and all other purposes incidental to any of the foregoing. The Dutch Borrower hereby agrees that each notice, instruction, election, request, representation and warranty, agreement, covenant, undertaking, consent and similar action made or taken on its behalf by the Borrower Representative shall be deemed for all purposes to have been made or taken by the Dutch Borrower and shall be binding upon and enforceable against the Dutch Borrower to the same extent as if the same had been made or taken directly by the Dutch Borrower.

(j) All provisions contained in any Loan Document shall be interpreted consistently with this Section 10.22 to the extent possible.

Section 10.23. Acceptance of Power of Attorney.

If a party hereto is represented by one or more attorneys in connection with the execution of this Agreement or any other Loan Document, and the relevant power of attorney is expressed to be governed by the laws of the Netherlands or any other law, that choice of law is hereby accepted by each other party hereto, in accordance with Article 14 of the Hague Convention on the Law Applicable to Agency of 14 March 1978.

Section 10.24. Acknowledgement and Consent to Bail-In of Affected Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any parties to any Loan Document, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under this Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of an applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of any applicable Resolution Authority.

Section 10.25. Acknowledgment Regarding Any Supported QFCs.

To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any agreement or instrument that is a QFC (such support, “QFC Credit Support”, and each such QFC, a “Supported QFC”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “U.S. Special Resolution Regimes”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 10.25, the following terms have the following meanings:

“BHC Act Affiliate” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THE TERM LOANS WERE ISSUED WITH ORIGINAL ISSUE DISCOUNT (“OID”) WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE “CODE”), AND THIS LEGEND IS REQUIRED BY SECTION 1275(c) OF THE CODE. HOLDERS OF THIS TERM LOAN MAY OBTAIN INFORMATION REGARDING THE

AMOUNT OF OID, THE ISSUE PRICE, THE ISSUE DATE AND THE YIELD TO MATURITY RELATING TO THE TERM LOANS BY CONTACTING THE [POSITION] OF THE BORROWER AT [ADDRESS].

[SIGNATURE PAGES INTENTIONALLY OMITTED.]

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

VYAIR COMPANY,
as Holdings

By: _____
Name:
Title:

VYAIR MEDICAL, INC.,
as U.S. Borrower

By: _____
Name:
Title:

VYAIR FINANCE B.V.,
as Dutch Borrower

By: _____
Name:
Title: Authorized Signatory

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as Administrative Agent and Collateral Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as Escrow Agent

By: _____
Name:
Title:

By: _____
Name:
Title:

JEFFERIES FINANCE LLC,
as a Lender

By: _____

Name:

Title:

Annex I³: Milestones

(a) No later than June 9, 2024, the Company Parties shall file (i) petitions in the Bankruptcy Court to commence the Chapter 11 Cases and (ii) within 24 hours thereafter file the First Day Pleadings, the DIP Motion, and the Bidding Procedures Motion;

(b) No later than June 12, 2024, the Bankruptcy Court shall have entered the Interim DIP Order;

(c) No later than July 1, 2024, the Debtors shall have (i) designated a stalking horse and (ii) received indications of interest that, individually or in the aggregate, in the good faith estimate of the Debtors and their advisors, with the consent of the Required Lenders, are likely to lead to bids that, individually or in the aggregate, meet the Minimum Bid Requirement as set forth in the Bidding Procedures and the Bidding Procedures Order; provided that if the Debtors do not receive any indications of interest consistent with the foregoing clause, then the Debtors shall terminate the sale process, cancel the auction, and, with the consent of the Required Lenders, wind down their estates pursuant to a Plan in a manner consistent with the RSA;

(d) No later than July 8, 2024, the Bankruptcy Court shall have entered the Bidding Procedures Order;

(e) No later than July 14, 2024, the Bankruptcy Court shall have entered the Final DIP Order;

(f) No later than July 22, 2024, the Debtors shall have received bids that, individually or in the aggregate, meet the Minimum Bid Requirement as set forth in the Bidding Procedures and the Bidding Procedures Order; provided that if the Debtors do not receive any bids consistent with the foregoing clause, then the Debtors shall terminate the sale process, cancel the auction, and, with the consent of the Required Lenders, wind down their estates pursuant to a Plan in a manner consistent with the RSA;

(g) No later than July 25, 2024, the auction shall have occurred, if applicable;

(h) No later than July 29, 2024, the Bankruptcy Court shall have entered the Sale Orders, if applicable; and

(i) No later than August 19, 2024, the Debtors shall have consummated the Sale Transactions.

³ Terms used but not defined herein shall have the meaning assigned to such term in the RSA.