IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
CLOVER TECHNOLOGIES GROUP, LLC, *et al.*,[1]	)	Case No. 19-12680 (KBO)
Debtors.	)	(Jointly Administered)
	)	**Re: Docket Nos. 92, 97**

NOTICE OF FILING OF SECOND AMENDED PLAN SUPPLEMENT FOR THE JOINT PREPACKAGED CHAPTER 11 PLAN OF REORGANIZATION OF CLOVER TECHNOLOGIES GROUP, LLC AND ITS DEBTOR AFFILIATES

Dated: January 21, 2020

PLEASE TAKE NOTICE that on January 8, 2020, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed the *Notice of Filing of Plan Supplement for the Joint Prepackaged Chapter 11 Plan of Reorganization of Clover Technologies Group, LLC and its Debtor Affiliates* [Docket No. 92] (the "Initial Plan Supplement"), with the United States Bankruptcy Court for the District of Delaware.

PLEASE TAKE FURTHER NOTICE THAT on January 14, 2020, the Debtors filed the *Notice of Filing of First Amended Plan Supplement for the Joint Prepackaged Chapter 11 Plan of Reorganization of Clover Technologies Group, LLC and its Debtors Affiliates* [Docket No. 97] (the "First Amended Plan Supplement").

PLEASE TAKE FURTHER NOTICE that the Debtors hereby file this amendment to the Initial Plan Supplement (the "Second Amended Plan Supplement" and together with the Initial Plan Supplement and the First Amended Plan Supplement, the "Plan Supplement") in support of the *Joint Prepackaged Chapter 11 Plan of Reorganization of Clover Technologies Group, LLC and its Debtor Affiliates* [Docket No. 4] (as amended or modified from time to time including all exhibits and supplements thereto, the "Plan")[2] filed in these chapter 11 cases on December 17, 2019. The documents contained in the Plan Supplement are integral to, part of, and incorporated by reference into the Plan. The Plan Supplement documents have not yet been approved by the Bankruptcy Court. If the Plan is approved, the documents contained in the Plan Supplement will be approved by the Bankruptcy Court pursuant to the Confirmation Order.

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Clover Technologies Group, LLC (9236); 4L Holdings Corporation (0292); 4L Technologies Inc. (5035); Clover Ithaca Properties, LLC (9236); Refurb Holdings, LLC (1230); Clover Wireless, LLC (0313); and Valu Tech Outsourcing, LLC (3563). The location of the Debtors' service address in these chapter 11 cases is: 5850 Granite Parkway, Suite 720, Plano, Texas 75024.

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Plan.

PLEASE TAKE FURTHER NOTICE that the Second Amended Plan Supplement includes the following documents, as may be amended, modified, or supplemented from time to time by the Debtors in accordance with the Plan, as set forth below:

- **Exhibit C** - Take-Back Term Loan Credit Agreement
- **Exhibit D** - New Warrant Agreement
- **Exhibit G** - Restructuring Steps Memorandum
- **Exhibit H** - Identities of the Members of the Reorganized Clover Board and the Officers of Reorganized Clover

PLEASE TAKE FURTHER NOTICE that certain documents, or portions thereof, contained in this Plan Supplement remain subject to continuing negotiations among the Debtors, the Required Consenting Term Loan Lenders, the Consenting Sponsors, and other interested parties with respect thereto. All parties reserve all rights to amend, revise, or supplement the Plan Supplement, and any of the documents and designations contained herein, at any time before the Effective Date, or any such other date in accordance with the Plan, the Confirmation Order, or any other order of the Bankruptcy Court. Each of the documents contained in the Plan Supplement or its amendments are subject to certain consent and approval rights to the extent provided in the Plan or the Restructuring Support Agreement.

PLEASE TAKE FURTHER NOTICE that the forms of the documents contained in the Plan Supplement are integral to, and are considered part of, the Plan. If the Plan is approved, the documents contained in the Plan Supplement will be approved by the Bankruptcy Court pursuant to the order confirming the Plan.

PLEASE TAKE FURTHER NOTICE that the hearing (the "Confirmation Hearing") will be held before the Honorable Karen B. Owens, United States Bankruptcy Judge, in Courtroom No. 3 of the United States Bankruptcy Court, 824 North Market Street, Wilmington, Delaware, 19801, on **January 22, 2020, at 10:00 a.m., prevailing Eastern Time**, to consider the adequacy of the Disclosure Statement, any objections to the Disclosure Statement, confirmation of the plan, any objections thereto, and any other matter that may properly come before the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE that the Confirmation Hearing may be adjourned or continued from time to time by the Bankruptcy Court without further notice other than by such adjournment being announced in open court or by a notice of adjournment filed with the Bankruptcy Court and served on other parties entitled to notice.

PLEASE TAKE FURTHER NOTICE that the Plan, the Plan Supplement, and other documents and materials filed in these chapter 11 cases may be obtained at no charge from Stretto,[3] the Debtors' notice, claims, and solicitation agent in these chapter 11 cases (the "Solicitation Agent"), by (a) accessing the Debtors' restructuring website at https://cases.stretto.com/clover; (b) emailing teamclover@stretto.com and referencing "Clover Technologies Group" in the subject line; (c) calling (855) 923-0996 (domestic toll free) or (949) 341-7245 (international toll), and asking for the Solicitation Group; or (d) writing to the Solicitation Agent at the following address: Clover Technologies Group Ballot Processing, c/o Stretto, 8269 E. 23rd Avenue, Suite 275, Denver, Colorado 80238. You may also obtain copies of any pleadings filed in these chapter 11 cases for a fee via PACER at http://www.ecf.deb.uscourts.gov.

[*Remainder of page left intentionally blank*]

[3] Stretto is the trade name of Bankruptcy Management Solutions, Inc., and its subsidiaries.

Dated: January 21, 2020
Wilmington, Delaware

/s/ Michael W. Yurkewicz

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Co-Counsel for the Debtors and Debtors in Possession

Exhibit C

Take-Back Term Loan Credit Agreement

This **Exhibit C** contains the Take-Back Term Loan Credit Agreement. Certain documents, or portions thereof, contained in this **Exhibit C** and the Plan Supplement remain subject to continuing negotiations among the Debtors, the Required Consenting Term Loan Lenders, the Consenting Sponsors, and other interested parties with respect thereto. All parties reserve all rights to amend, revise, or supplement the Plan Supplement, and any of the documents and designations contained herein, at any time before the Effective Date of the Plan, or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court. Each of the documents contained in the Plan Supplement or its amendments are subject to certain consent and approval rights to the extent provided in the Plan or the Restructuring Support Agreement.

$80,000,000 TERM LOAN FACILITY

LOAN AGREEMENT

Dated as of January [__], 2020

by and among

4L HOLDINGS CORPORATION,

as Holdings,

4L TECHNOLOGIES INC. and CLOVER TECHNOLOGIES GROUP, LLC,

as Borrowers,

THE OTHER PERSONS PARTY HERETO THAT ARE DESIGNATED AS CREDIT PARTIES,

WILMINGTON SAVINGS FUND SOCIETY, FSB,
as Agent for all Lenders,

and

THE OTHER FINANCIAL INSTITUTIONS PARTY HERETO,

as Lenders

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SCHEDULES

EXHIBITS

LOAN AGREEMENT

This LOAN AGREEMENT (including all exhibits and schedules hereto, as the same may be amended, modified and/or restated from time to time, this "**Agreement**") is entered into as of January [__], 2020, by and among 4L Holdings Corporation, a Delaware corporation ("**Holdings**"), 4L Technologies Inc., an Illinois corporation, and Clover Technologies Group, LLC, a Delaware limited liability company (collectively, the "**Borrowers**" and, individually, each, a "**Borrower**"), the Borrower Representative, the other Persons party hereto that are designated as a "**Credit Party**", Wilmington Savings Fund Society, FSB, as Agent for the several financial institutions and entities from time to time party to this Agreement (collectively, the "**Lenders**" and, individually, each, a "**Lender**"), and such Lenders.

W I T N E S S E T H:

WHEREAS, on December 16, 2019 (the "**Petition Date**"), the Borrowers and certain of their Subsidiaries (collectively, the "**Debtors**"), each filed in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"), a voluntary petition for relief under Chapter 11 of the Bankruptcy Code, and such reorganization case was jointly administered under the Case Number 19-12680 (the "**Chapter 11 Cases**");

WHEREAS, the date hereof is the effective date of the Joint Prepackaged Chapter 11 Plan of Reorganization of Clover Technologies Group, LLC and its Debtor Affiliates (as may be modified, amended, or supplemented from time to time, the "**Plan of Reorganization**"), which Plan of Reorganization was confirmed by the Bankruptcy Court on January [__], 2020;

WHEREAS, pursuant to the terms of the Plan of Reorganization and subject to the terms and conditions set forth herein, the Lenders have agreed to convert an aggregate amount of $[__,000,000] of the "Loans" previously made available to the Borrowers under, and as defined in, the Existing Credit Agreement and which remain owed to the Lenders on the Closing Date into $80,000,000 of Loans hereunder pursuant to the terms hereof;

WHEREAS, the Borrowers desire to secure all of their Obligations under the Loan Documents by granting to Agent, for the benefit of the Secured Parties, a security interest in and lien upon all of the Collateral;

WHEREAS, Holdings, which owns all of the Stock and Stock Equivalents of Intermediate Holdings, is willing to guaranty all of the Obligations and to pledge to Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents of Intermediate Holdings and substantially all of its other Property to secure the Obligations; and

WHEREAS, subject to the terms and limitations hereof, including, without limitation, Section 4.12, each Subsidiary of Holdings which is not a Borrower is willing to guarantee all of the Obligations of the Borrowers and to grant to Agent, for the benefit of the Secured Parties, a security interest in and lien upon substantially all of its Property.

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

ARTICLE I

THE CREDITS

1.1 Amounts and Terms of Loans.

On the Closing Date, $[__,000,000] in principal amount of the "Loans" under, and as defined in, the Existing Credit Agreement shall be deemed to have been advanced by the Lenders to the Borrowers under this Agreement in the amounts set forth for each Lender on Schedule 1.1 opposite such Lender's name (such amount being referred to herein as such Lender's "**Term Loan Commitment**"), in full satisfaction of the "Obligations" under, and as defined in, the Existing Credit Agreement, including, for the avoidance of doubt, the deemed payment in full of the "Loans" (and accrued fees and interest thereon) under, and as defined in, the Existing Credit Agreement. The converted "Loans" shall be deemed to be Loans outstanding for all purposes

under this Agreement owed by the Borrowers to such Lenders in the aggregate principal amount of $80,000,000 and all of the then-outstanding "Commitments" (if any) under, and as defined in, the Existing Credit Agreement shall be terminated on the Closing Date. Amounts repaid or prepaid in respect of the Loans may not be reborrowed. Once borrowed (or deemed borrowed), the Loans shall constitute a single tranche of Loans for all purposes under this Agreement. Amounts borrowed (or deemed borrowed) under this Section 1.1 are referred to as the "**Initial Term Loan**."

1.2 Notes. The Term Loan made by each Lender with a Term Loan Commitment shall be evidenced by this Agreement and, if requested by such Lender, a Term Note payable to such Lender in an amount equal to such Lender's Term Loan Commitment.

1.3 Interest.

(a) Subject to Sections 1.3(c) and 1.3(d), each Loan shall bear interest on the outstanding principal amount thereof from the date when made at a rate *per annum* equal to the LIBOR or the Base Rate, as the case may be, plus the Applicable Margin. Each determination of an interest rate by Agent shall be conclusive and binding on each Borrower and the Lenders in the absence of manifest error. All computations of fees payable under this Agreement shall be made on the basis of a 360-day year and actual days elapsed. With respect to Base Rate Loans, all computations of interest payable under this Agreement shall be made on the basis of a 365/366-day year and actual days elapsed. Interest and fees shall accrue during each period during which interest or such fees are computed from the first day thereof to the last day thereof.

(b) Interest on each Loan shall be paid in arrears on each Interest Payment Date. Interest shall also be paid in full for the amounts prepaid on the date of any payment or prepayment of Loans.

(c) (i) If all or a portion of the principal amount of any Loan shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate *per annum* equal to the rate that would otherwise be applicable thereto pursuant to the foregoing provisions of this Section 1.3 plus two percent (2.00%) and (ii) if all or a portion of any interest payable on any Loan or other amount payable hereunder shall not be paid when due (whether at the stated maturity, by acceleration or otherwise), such overdue amount shall bear interest at a rate *per annum* equal to the rate then applicable to Base Rate Loans, plus two percent (2.00%), in each case, with respect to clauses (i) and (ii) above, from the date of such non-payment until such amount is paid in full (as well after as before judgment).

(d) Anything herein to the contrary notwithstanding, the obligations of the Borrowers hereunder shall be subject to the limitation that payments of interest shall not be required, for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by the respective Lender would be contrary to the provisions of any law applicable to such Lender limiting the highest rate of interest which may be lawfully contracted for, charged or received by such Lender, and in such event the Borrowers shall pay such Lender interest at the highest rate permitted by applicable law ("**Maximum Lawful Rate**"); provided, however, that if at any time thereafter the rate of interest payable hereunder is less than the Maximum Lawful Rate, the Borrowers shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by

Agent, on behalf of Lenders, is equal to the total interest that would have been received had the interest payable hereunder been (but for the operation of this paragraph) the interest rate payable since the Closing Date as otherwise provided in this Agreement.

1.4 Loan Accounts.

(a) Agent, on behalf of the Lenders, shall record on its books and records the amount of each Loan made, the interest rate applicable, all payments of principal and interest thereon and the principal balance thereof from time to time outstanding. Agent shall deliver to the Borrower Representative on a monthly basis a loan statement setting forth such record for the immediately preceding calendar month. Such record shall, absent manifest error, be conclusive evidence of the amount of the Loans made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so, or any failure to deliver such loan statement shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder (and under any Note) to pay any amount owing with respect to the Loans or provide the basis for any claim against Agent.

(b) Agent, acting as a non-fiduciary agent of the Borrowers solely for tax purposes and solely with respect to the actions described in this Section 1.4(b), shall establish and maintain at its address referred to in Section 9.2, provided such office is in the United States (the "**Agent's Office**") (or at such other address as Agent may notify the Borrower Representative), (A) a record of ownership (the "**Register**") in which Agent agrees to register by book entry the interests (including any rights to receive payment hereunder) of Agent and each Lender in the Loans, each of their obligations under this Agreement to participate in each Loan, and any assignment of any such interest, obligation or right and (B) accounts in the Register in accordance with its usual practice in which it shall record (1) the names and addresses of the Lenders (and each change thereto pursuant to Sections 9.8 and 9.21), (2) the Commitments, if any, of each Lender, (3) the amount of each Loan, and for LIBOR Rate Loans, the Interest Period applicable thereto, (4) the amount of any principal or interest due and payable or paid and (5) any other payment received by Agent from a Borrower and its application to the Obligations.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Loans (including any Notes evidencing such Loans) are registered obligations, the right, title and interest of the Lenders and their assignees in and to such Loans shall be transferable in accordance with the terms herein and only upon notation of such transfer in the Register and no assignment thereof shall be effective until recorded in the Register. This Section 1.4 and Section 9.8 shall be construed so that the Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code.

(d) The Credit Parties, Agent and the Lenders shall treat each Person whose name is recorded in the Register as a Lender for all purposes of this Agreement. Information contained in the Register with respect to any Lender shall be available for access by the Borrowers, the Borrower Representative, Agent or such Lender during normal business hours and from time to time upon reasonable prior notice. No Lender shall, in such capacity, have access to or be otherwise permitted to review any information in the Register (including, without limitation, the Commitments, if any, of each Lender) other than information with respect to such Lender unless otherwise agreed by Agent.

1.5 Conversion and Continuation Elections.

(a) The Borrowers shall have the option to (i) convert at any time all or any part of outstanding Loans from Base Rate Loans to LIBOR Rate Loans, (ii) convert any LIBOR Rate Loan to a Base Rate Loan, subject to Section 10.4 if such conversion is made prior to the expiration of the Interest Period applicable thereto, or (iii) continue all or any portion of any Loan as a LIBOR Rate Loan upon the expiration of the applicable Interest Period. Any Loan or group of Loans having the same proposed Interest Period to be made or continued as, or converted into, a LIBOR Rate Loan must be in a minimum amount of $3,000,000 and multiples of $1,000,000 in excess thereof. Any such election must be made by Borrower Representative by 2:00 p.m. (New York City time) on the third (3rd) Business Day prior to (1) the end of each Interest Period with respect to any LIBOR Rate Loans to be continued as such, or (2) the date on which the Borrowers wish to convert any Base Rate Loan to a LIBOR Rate Loan for an Interest Period designated by the Borrower Representative in such election. If no election is received with respect to a LIBOR Rate Loan by 2:00 p.m. (New York City time) on the third (3rd) Business Day prior to the end of the Interest Period with respect thereto, that LIBOR Rate Loan shall be converted to a Base Rate Loan at the end of its Interest Period. The Borrower Representative must make such election by notice to Agent in writing, by fax, overnight courier or electronic transmission. In the case of any conversion or continuation, such election must be made pursuant to a written notice (a "**Notice of Conversion/Continuation**") substantially in the form of Exhibit 1.5 or in a writing in any other form reasonably acceptable to Agent. No Loan shall be made, converted into or continued as a LIBOR Rate Loan at the end of the relevant Interest Period, if an Event of Default has occurred and is continuing and Agent or Required Lenders have provided written notice to the Borrower Representative that it or they have determined not to make or continue any Loan as a LIBOR Rate Loan as a result thereof.

(b) Upon receipt of a Notice of Conversion/Continuation, Agent will promptly notify each Lender thereof. In addition, Agent will, with reasonable promptness, notify the Borrower Representative and the Lenders of each determination of LIBOR; provided that any failure to do so shall not relieve any Borrower of any liability hereunder or provide the basis for any claim against Agent. All conversions and continuations shall be made pro rata according to the respective outstanding principal amounts of the Loans held by each Lender with respect to which the notice was given.

(c) Notwithstanding any other provision contained in this Agreement, after giving effect to any Borrowing, or to any continuation or conversion of any Loans, there shall not be more than seven (7) different Interest Periods in effect.

1.6 Optional Prepayments.

(a) The Borrowers may at any time upon at least (i) in the case of any Base Rate Loan, one (1) Business Day's or (ii) in the case of any LIBOR Rate Loan, three (3) Business Days' (or, in each case, such shorter period as is acceptable to Agent) prior written notice by the Borrower Representative to Agent, prepay any Class or Classes of Loans in whole or in part in an amount greater than or equal to $100,000, in each instance, without penalty or premium except as provided in Sections 1.8(b) and 10.4. Each such notice shall specify the Class(es) of Loans to be prepaid. Any prepayment of a LIBOR Rate Loan shall be accompanied by all accrued interest on the amount

prepaid, together with any additional amounts required pursuant to Section 10.4. Optional partial prepayments of the Term Loan shall be applied in the manner directed by the Borrower Representative or, if not specified, as set forth in Section 1.7(e). Optional partial prepayments of the Term Loan in amounts less than $100,000 shall not be permitted.

(b) The notice of any prepayment shall not thereafter be revocable by the Borrowers or the Borrower Representative and Agent will promptly notify each Lender thereof and of such Lender's pro rata share of such prepayment; provided that a notice of prepayment delivered by the Borrowers or the Borrower Representative in connection with a prepayment of the Obligations in full may state that such prepayment is conditioned upon the occurrence of certain events, or the effectiveness of the other credit facilities or other types of financing the proceeds of which shall be used to make the proposed repayment, in which case such notice may be revoked or postponed until a later specified date by the Borrowers or the Borrower Representative (by written notice provided by the Borrower Representative to Agent on or prior to the specified effective date thereof) if such condition is not satisfied. The payment amount specified in such notice shall be due and payable on the date specified therein. Together with each prepayment under this Section 1.6, the Borrowers shall pay any amounts required pursuant to Section 10.4.

1.7 Mandatory Prepayments of Loans.

(a) Scheduled Term Loan Payments. Subject to adjustment to reflect any prepayments thereof applied in accordance with Section 1.7(e), the Borrowers shall repay the outstanding Term Loans in consecutive quarterly installments, commencing on June 30, 2020, on the last Business Day of each of June, September, December and March following the Closing Date in an amount equal to (i) $80,000,000 multiplied by (ii) the multiplier set forth below, with the remaining balance thereof payable on the Term Loan Maturity Date:

Scheduled Repayment Date	**Multiplier**
June 30, 2020	0.25%
September 30, 2020	0.25%
December 31, 2020	0.25%
March 31, 2021	0.25%
June 30, 2021	0.50%
September 30, 2021	0.50%
December 31, 2021	0.50%
March 31, 2022	0.50%
June 30, 2022	1.25%
September 30, 2022	1.25%
December 31, 2022	1.25%
March 31, 2023	1.25%
June 30, 2023	1.25%
September 30, 2023	1.25%
December 31, 2023	1.25%

(b) Asset Dispositions. If a Credit Party or any Subsidiary of a Credit Party shall at any time or from time to time:

(i) make a Disposition; or

(ii) suffer an Event of Loss;

and the aggregate amount of the Net Proceeds received by the Credit Parties and their Subsidiaries in connection with such Disposition or Event of Loss and all other Dispositions and Events of Loss occurring during the Fiscal Year exceeds $5,000,000, then (A) the Borrower Representative shall promptly notify Agent of such proposed Disposition or Event of Loss or receipt of proceeds (including the amount of the estimated Net Proceeds to be received by a Credit Party and/or such Subsidiary in respect thereof) and (B) within ten (10) Business Days of receipt thereof by a Credit Party and/or such Subsidiary of the Net Proceeds of such Disposition or Event of Loss, the Borrowers shall deliver, or cause to be delivered, such excess Net Proceeds to Agent for distribution to the Lenders as a prepayment of the Loans, which prepayment shall be applied in accordance with Section 1.7(e). Notwithstanding the foregoing and provided no Event of Default has occurred and is continuing, such prepayment shall not be required to the extent a Credit Party or such Subsidiary reinvests the Net Proceeds of such Disposition or Event of Loss in assets of a kind then used or usable in the business of any Credit Party or any Subsidiary thereof, within three hundred sixty five (365) days after the date of such Disposition or Event of Loss or enters into a binding commitment to make such a reinvestment within said three hundred sixty five (365) day period and subsequently makes such reinvestment no later than one hundred eighty (180) days after the end of such three hundred sixty five (365) day period; provided that the Borrower Representative notifies Agent of such Person's intent to reinvest and of the completion of such reinvestment at the time such proceeds are received and when such reinvestment occurs, respectively (provided, however, that the failure to deliver any such notice shall not affect the reinvestment rights of the Borrowers under this Section 1.7(b)).

(c) Issuance of Debt. Within five (5) Business Days of the date of the receipt by any Credit Party or any Subsidiary of any Credit Party of the Net Issuance Proceeds of the issuance or incurrence of any Indebtedness (other than Net Issuance Proceeds from the issuance of Indebtedness permitted hereunder), the Borrower Representative shall deliver, or cause to be delivered, to Agent an amount equal to such Net Issuance Proceeds, for application to the Loans in accordance with Section 1.7(e).

(d) Excess Cash Flow. Within ten (10) days after the annual financial statements are required to be delivered pursuant to Section 4.1(a), commencing with such annual financial statements for the Fiscal Year ending December 31, 2, the Borrower Representative shall deliver to Agent a written calculation of Excess Cash Flow of the Credit Parties and their Subsidiaries for such Fiscal Year (as well as the Available Amount as of the last day of such Fiscal Year) in the form of Exhibit 1.7(d) (an "**Excess Cash Flow Certificate**") and certified as correct in all material respects on behalf of the Credit Parties by a Responsible Officer of the Borrower Representative and concurrently therewith shall deliver to Agent, for distribution to the Lenders an amount equal to the ECF Percentage of such Excess Cash Flow minus voluntary prepayments of the Loans (other than any such prepayments funded with the proceeds of Indebtedness), cash payments made by Holdings and its Subsidiaries in acquiring Loans pursuant to Section 9.8(g), in

each case to the extent made during the applicable Fiscal Year of measurement (such amount not to be less than zero), for application to the Loans in accordance with the provisions of Section 1.7(e) hereof minus amounts with respect to excess cash flow expressly required to be paid under the Working Capital Facility.

(e) Application of Prepayments. Subject to Section 1.9(c), with respect to any prepayments of the Term Loan pursuant to Section 1.6 and any prepayments pursuant to Sections 1.7(b), 1.7(c), or 1.7(d), the Borrower Representative shall, subject to the provisions of this paragraph, select the Borrowing or Borrowings to be prepaid and shall specify such selection in the notice of such prepayment (it being agreed and understood that in the case of prepayments pursuant to Sections 1.7(b), 1.7(c) and 1.7(d), such prepayments shall be offered ratably to each Class of Term Loans then outstanding). Notwithstanding anything herein to the contrary, with respect to any prepayment under Section 1.7(b), the Borrowers may use a portion of the Net Proceeds to prepay or repurchase Unrestricted Additional Term Notes, Additional Term Notes, the Working Capital Facility, any Qualified Factoring Facility and any other senior Indebtedness in each case secured by the Collateral on a *pari passu* basis with the Liens securing the Obligations (the "**Applicable Other Indebtedness**") to the extent required or permitted pursuant to the terms of the documentation governing such Applicable Other Indebtedness, in which case, the amount of the prepayment required to be offered with respect to such Net Proceeds pursuant to Section 1.7(b) shall be deemed to be the amount equal to the product of (x) the amount of such Net Proceeds multiplied by (y) a fraction, the numerator of which is the outstanding principal amount of Loans required to be prepaid pursuant to Section 1.7(b) and the denominator of which is the sum of the outstanding principal amount of such Applicable Other Indebtedness and the outstanding principal amount of Loans required to be prepaid pursuant to Section 1.7(b). Agent shall promptly notify each Lender holding the applicable Class of Term Loans of the contents of the prepayment notice and of such Lender's pro rata share of the repayment. Each Lender may reject all (but not less than all) of its pro rata share of any mandatory prepayment (such declined amounts, the "**Declined Proceeds**") of Term Loans required to be made under Sections 1.7(b), 1.7(c), or 1.7(d) by providing notice to Agent at or prior to the time of such prepayment. Any Declined Proceeds remaining thereafter shall be retained by the Borrowers ("**Retained Declined Proceeds**"). Accepted payments shall be applied to prepay all remaining installments of the Term Loan in the direct order of maturity of such scheduled installments. To the extent permitted by the foregoing sentence, amounts prepaid shall be applied first to any Base Rate Loans then outstanding and then to outstanding LIBOR Rate Loans with the shortest Interest Periods remaining. Together with each prepayment under this Section 1.7, the Borrowers shall pay any amounts required pursuant to Section 10.4 hereof.

(f) No Implied Consent. Provisions contained in this Section 1.7 for the application of proceeds of certain transactions shall not be deemed to constitute consent of the Lenders to transactions that are not otherwise permitted by the terms hereof or the other Loan Documents.

(g) Foreign Asset Dispositions and Excess Cash Flow. Notwithstanding any other provisions of this Section 1.7, (i) to the extent that any or all of the Net Proceeds from a Disposition or Event of Loss, or any asset sale by a Foreign Subsidiary giving rise to a prepayment requirement under Section 1.7(b) (a "**Foreign Asset Sale**") or any amount included in Excess Cash Flow and attributable to Foreign Subsidiaries are prohibited or delayed by applicable local law

from being repatriated to the United States, such portion of the Net Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Loans at the times provided in this Section 1.7 but 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 (Holdings hereby agreeing to take and to cause the applicable Foreign Subsidiary to promptly take all actions required by the applicable local law to permit such repatriation), and once such repatriation of any of such affected Net Proceeds or Excess Cash Flow is permitted under the applicable local law, such repatriation will be immediately effected and such repatriated Net Proceeds will be promptly (and in any event not later than two (2) Business Days after such repatriation) applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Loans as required pursuant to this Section 1.7 and (ii) to the extent that the Borrower Representative has determined in good faith that repatriation of any of or all the Net Proceeds of any Foreign Asset Sale or Excess Cash Flow would have an adverse tax consequence (other than de minimis consequences) with respect to such Net Proceeds or Excess Cash Flow, the Net Proceeds or Excess Cash Flow so affected may be retained by the applicable Foreign Subsidiary; provided that, in the case of this clause (ii), to the extent that within one (1) year of the date on which such payment is required such repatriation of any of such affected Net Proceeds or Excess Cash Flow ceases to result in an adverse tax consequence with respect to such Net Proceeds or Excess Cash Flow, such repatriation will be immediately effected and such repatriated Net Proceeds will be promptly (and in any event not later than two (2) Business Days after such repatriation) applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Loans as required pursuant to this Section 1.7.

1.8 Fees; Call Protection.

(a) Fees. The Borrowers shall pay to Agent, for Agent's own account, fees in the amounts and at the times set forth in the letter agreement among Holdings and Agent dated as of January [__], 2020 (as amended from time to time, the "**Fee Letter**").

(b) Call Protection. In the event that on or prior to the second anniversary of the Closing Date, the Borrowers make any prepayment or repayment of Loans pursuant to Section 1.6, 1.7(b)(i) or 1.7(c) or upon any acceleration of the Loans (including any automatic acceleration pursuant to the proviso set forth in Section 7.2), the Borrowers shall pay to Agent, for the ratable account of each of the Lenders whose Loans are prepaid or repaid, a prepayment premium in an amount equal to (i) with respect any such prepayment or repayment occurring during the period commencing on the Closing Date through and including the first anniversary of the Closing Date, two percent (2.00%) and (ii) with respect to any such prepayment or repayment occurring during the period commencing on the day after the first anniversary of the Closing Date through and including the second anniversary of the Closing Date, one percent (1.00%), in each case, of the amount of the Loans being so prepaid, repaid or refinanced, which shall become immediately due and payable. Any prepayment premium shall be in addition to, and not in lieu of, all principal payments and other amounts due pursuant to this Agreement.

1.9 Payments by the Borrowers.

(a) All payments (including prepayments) to be made by each Credit Party on account of principal, interest, fees and other amounts required hereunder shall be made without

set-off, recoupment, counterclaim or deduction of any kind, shall, except as otherwise expressly provided herein, be made to Agent (for the ratable account of the Persons entitled thereto) at the address for payment specified in the signature page hereof in relation to Agent (or such other address as Agent may from time to time specify in accordance with Section 9.2), and shall be made in Dollars and by wire transfer in immediately available funds, no later than 1:00 p.m. (New York City time) on the date due. Any payment which is received by Agent later than 1:00 p.m. (New York City time) shall be deemed to have been received on the immediately succeeding Business Day and any applicable interest or fee shall continue to accrue; provided that for the avoidance of doubt, any payment which is received by Agent later than 1:00 p.m. (New York City time) on the applicable due date shall not constitute an Event of Default hereunder so long as such payment is received by Agent prior to 5:00 p.m. (New York City time) on such due date. Each Borrower and each other Credit Party hereby irrevocably waives the right to direct the application during the continuance of an Event of Default of any and all payments in respect of any Obligation made with proceeds from the exercise of remedies against Collateral.

(b) Subject to the provisions set forth in the definition of "Interest Period" herein, if any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of interest or fees, as the case may be.

(c) During the continuance of an Event of Default and at any time after any or all Obligations have been accelerated (so long as such acceleration has not been rescinded), Agent shall apply any and all payments received by Agent, including proceeds of Collateral, as follows:

first, to payment of costs and expenses, including Attorney Costs, of Agent payable or reimbursable by the Credit Parties under the Loan Documents;

second, to payment of costs and expenses, including Attorney Costs, of Lenders payable or reimbursable by the Credit Parties under the Loan Documents;

third, to payment of all accrued unpaid interest on the Obligations and fees owed to Agent and the Lenders;

fourth, to payment of principal of the Obligations (in each case, other than, for the avoidance of doubt, contingent indemnification obligations to the extent no claim giving rise thereto has been asserted);

fifth, to payment of any other amounts owing constituting Obligations; and

sixth, any remainder shall be for the account of and paid to whoever may be lawfully entitled thereto.

In carrying out the foregoing, (i) amounts received shall be applied in the numerical order provided until exhausted prior to the application to the next succeeding category and (ii) each of the Lenders entitled to payment shall receive an amount equal to its pro rata share of amounts available to be applied pursuant to clauses third, fourth and fifth above.

1.10 Payments by the Lenders to Agent; Settlement.

(a) Return of Payments.

(i) If Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Agent from the Borrowers and such related payment is not received by Agent, then Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind, forthwith on demand and in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to Agent, at the greater of the Federal Funds Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation.

(ii) If Agent determines at any time that any amount received by Agent under this Agreement or any other Loan Document must be returned to any Credit Party or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Loan Document, Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Agent on demand any portion of such amount that Agent has distributed to such Lender, together with interest at such rate, if any, as Agent is required to pay to any Borrower or such other Person, without setoff, counterclaim or deduction of any kind, and Agent will be entitled to set-off against future distributions to such Lender any such amounts (with interest) that are not repaid on demand.

(b) Procedures. Agent is hereby authorized by each Credit Party and each other Secured Party to establish procedures (and to amend such procedures from time to time) to facilitate administration and servicing of the Loans and other matters incidental thereto. Without limiting the generality of the foregoing, Agent is hereby authorized to establish procedures to make available or deliver, or to accept, notices, documents and similar items on, by posting to or submitting and/or completion, on E-Systems.

1.11 Borrower Representative. The Credit Parties and each of their Subsidiaries hereby designates and appoints Clover as its representative and agent on its behalf (the "**Borrower Representative**") for the purposes of issuing Notices of Conversion/Continuation, delivering certificates including Excess Cash Flow Certificates and Compliance Certificates, giving instructions with respect to the disbursement of the proceeds of the Loans, selecting interest rate options, giving and receiving all other notices and consents hereunder or under any of the other Loan Documents and taking all other actions (including in respect of compliance with covenants) on behalf of any Credit Party or Credit Parties and their Subsidiaries under the Loan Documents. The Borrower Representative hereby accepts such appointment. Agent and each Lender may regard any notice or other communication pursuant to any Loan Document from the Borrower Representative as a notice or communication from all Credit Parties and their Subsidiaries. Each warranty, covenant, agreement and undertaking made on behalf of a Credit Party or their Subsidiary by the Borrower Representative shall be deemed for all purposes to have been made by such Credit Party or Subsidiary and shall be binding upon and enforceable against such Credit

Party or Subsidiary to the same extent as if the same had been made directly by such Credit Party or Subsidiary.

1.12 Incremental Credit Extensions.

(a) At any time and from time to time prior to the Latest Maturity Date, subject to the terms and conditions set forth herein, the Borrower Representative may by no less than three (3) Business Days' prior notice to Agent (or such lesser number of days as may be reasonably acceptable to Agent), request to add one or more new credit facilities (each, an "**Incremental Facility**") denominated in Dollars and consisting of (x) one or more additional tranches of term loans (each, an "**Incremental Term Facility**" and the term loans extended thereunder, the "**Incremental Term Loans**") or (y) in lieu of the Incremental Term Loans, junior lien secured or unsecured term loans that would be issued pursuant to separate loan documentation and not pursuant to this Agreement (such other loans, the "**Incremental Other Term Loans**"), or a combination thereof; provided that (i) immediately before and after giving effect to each Incremental Facility Amendment (or, with respect to Incremental Other Term Loans, the applicable credit documentation) and the applicable Incremental Facility, no Default or Event of Default has occurred and is continuing or would result therefrom and the representations and warranties in Article III shall be true and correct in all material respects; provided that if the proceeds of such Incremental Facility are, substantially concurrently with the receipt thereof, to be used by Holdings or any Subsidiary to finance, in whole or in part, an Acquisition permitted hereunder, then (x) the only representations and warranties that will be required to be true and correct in all material respects (or, in the case of any representations and warranties qualified by materiality or Material Adverse Effect, in all respects) as of the applicable closing date for such Incremental Facility shall be (A) the Specified Representations and (B) such of the representations and warranties made by or on behalf of the applicable acquired company or business in the applicable acquisition agreement as are material to the interests of the Lenders, but only to the extent that Holdings or the applicable Subsidiary has the right to terminate its obligations under such acquisition agreement or not consummate such acquisition as a result of a breach of such representations or warranties in such acquisition agreement and (y) the only condition with respect to absence of a Default or Event of Default shall be the absence of a payment or bankruptcy Default or Event of Default, (ii) subject to the provisos to this sentence, immediately after giving effect to each Incremental Facility Amendment (or, with respect to the Incremental Other Term Loans, the applicable credit documentation) and the applicable Incremental Facility, the First Lien Net Leverage Ratio (without giving effect to any proceeds of the Incremental Facility for purposes of calculating the First Lien Net Leverage Ratio) computed on a Pro Forma Basis shall not be greater than 4.00 to 1.00 as of the Applicable Date of Determination, (iii) in the event that the Yield for any Incremental Facility incurred during such period is higher than the Yield for the Initial Term Loans by more than fifty (50) basis points, then the Applicable Margin for the Initial Term Loans shall be increased to the extent necessary so that the Yield for such Initial Term Loans is equal to the Yield for such Incremental Facility minus fifty (50) basis points and (iv) all Incremental Other Term Loans which are not secured on a *pari passu* basis with the Term Loans shall nevertheless be deemed to be First Lien Indebtedness for all purposes of calculating the First Lien Net Leverage Ratio under this Section 1.12 and the defined term "Additional Term Notes" from and after the date of incurrence of such Incremental Other Term Loans. Each Incremental Facility shall be in an integral multiple of $1,000,000 and be in an aggregate principal amount that is not less than $25,000,000; provided that such amount may be less than $25,000,000 if such amount represents

all the remaining availability under the aggregate principal amount of Incremental Facilities set forth above.

(b) Each Incremental Facility (i) other than Incremental Other Term Loans, shall rank *pari passu* in right of payment in respect of the Collateral and with the Obligations in respect of the Term Loans made available to the Borrowers, (ii) for purposes of prepayments, shall be treated no more favorably than the Initial Term Loans, except those that only apply after the then existing Latest Maturity Date, and (iii) other than amortization, pricing or maturity date, shall have the same terms as the Initial Term Loans; provided that (A) no Incremental Term Facility shall have a final maturity date earlier than the Term Loan Maturity Date with respect to the Initial Term Loans and (B) no Incremental Term Facility shall have a weighted average life that is shorter than the weighted average life of the then-remaining Initial Term Loans. Incremental Other Term Loans may rank junior in right of security with the Term Loans ("**Junior Lien Incremental Other Term Loans**") or be unsecured so long as with respect to any Junior Lien Incremental Other Term Loans, an intercreditor agreement shall be entered into with the representative of such providers of such Junior Lien Incremental Other Term Loans in form and substance reasonably satisfactory to Agent (at the direction of Required Lenders) and the Borrower Representative.

(c) Each notice from the Borrower Representative pursuant to this Section 1.12 shall set forth the requested amount and proposed terms of the relevant Incremental Facility. Any additional bank, financial institution, existing Lender or other Person that elects to provide Commitments under an Incremental Facility shall be reasonably satisfactory to the Borrower Representative and Agent (such consent of Agent not to be unreasonably withheld) (any such bank, financial institution, existing Lender or other Person being called an "**Additional Lender**") and, if not already a Lender, shall become a Lender under this Agreement pursuant to an amendment (an "**Incremental Facility Amendment**") to this Agreement and, as appropriate, the other Loan Documents, executed by Holdings, the Borrowers, such Additional Lender (in the case of this Agreement and, as appropriate, any other Loan Document, as applicable) and, to the extent it affects the rights or increases the obligations of Agent, Agent; provided that, with respect to any Incremental Other Term Loans, such financing provider shall execute such documents as are agreed with the Borrower Representative. No Lender shall be obligated to provide any Commitments under an Incremental Facility, unless it so agrees (and any Lender that does not respond shall be conclusively presumed not to agree to provide additional Commitments). Commitments in respect of any Incremental Facilities shall become Commitments under this Agreement. An Incremental Facility Amendment may, without the consent of any other Lenders, effect such amendments to any Loan Documents as may be necessary or appropriate, in the reasonable opinion of Agent, to effect the provisions of this Section 1.12 (including to provide for voting provisions applicable to the Additional Lenders comparable to the provisions of Section 9.1). The proceeds of any Loans under an Incremental Facility will be used, directly or indirectly, for working capital and/or general corporate purposes and/or any other purposes not prohibited hereunder (including, without limitation, Restricted Payments and Acquisitions).

(d) This Section 1.12 shall supersede any provisions herein requiring pro rata treatment of Lenders or Section 9.1 to the contrary.

1.13 Effect of Benchmark Transition Event.

(a) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, Agent and the Borrowers may amend this Agreement to replace LIBOR with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after Agent has posted such proposed amendment to all Lenders and the Borrowers so long as Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders; provided that, with respect to any proposed amendment containing any SOFR-Based Rate, the Lenders shall be entitled to object only to the Benchmark Replacement Adjustment contained therein. Any such amendment with respect to an Early Opt-in Election will become effective on the date that Lenders comprising the Required Lenders have delivered to Agent written notice that such Required Lenders accept such amendment. No replacement of LIBOR with a Benchmark Replacement pursuant to this Section 1.13 will occur prior to the applicable Benchmark Transition Start Date.

(b) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement, Agent, with the written consent of the Borrowers (such consent not to be unreasonably withheld, conditioned or delayed), will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.

(c) Notices; Standards for Decisions and Determinations. Agent will promptly notify the Borrowers and the Lenders of (i) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date and Benchmark Transition Start Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes and (iv) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by Agent or Lenders, in each case, with the consent of the Borrowers (such consent not to be unreasonably withheld, conditioned or delayed), pursuant to this Section 1.13, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 1.13.

(d) Benchmark Unavailability Period. Upon the Borrowers' receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrowers may revoke any request for a LIBOR Rate Loan of, conversion to or continuation of LIBOR Rate Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrowers will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans.

ARTICLE II

CONDITIONS PRECEDENT

2.1 Conditions of the Initial Term Loan. The obligation of each Lender to the deemed making of its initial Loan hereunder, which constitutes the Initial Term Loan, is subject to satisfaction of the following conditions:

(a) Loan Documents; Deliverables. Agent shall have received on or before the Closing Date all of the agreements, documents, instruments and other items set forth on the closing checklist attached hereto as Exhibit 2.1, each in form and substance reasonably satisfactory to Agent;

(b) Confirmation Order. The Confirmation Order, authorizing the Credit Parties to execute, deliver, and perform their obligations under this Agreement, shall have been entered and shall be in full force and effect and shall not (i) have been stayed, reversed, vacated, amended, supplemented or otherwise modified in any manner that could be reasonably expected to adversely affect the interests of Agent or the Required Lenders or (ii) be the subject of an appeal;

(c) Repayment of Certain Indebtedness. Agent shall have received evidence reasonably satisfactory to it that substantially simultaneously with the deemed making of the Initial Term Loan hereunder, the Existing Credit Agreement shall be satisfied in full;

(d) Fees. The Lenders and Agent shall have received all fees required to be paid, and all reasonable and out-of-pocket expenses for which invoices have been presented (including the reasonable out-of-pocket fees and expenses of legal counsel), on or before the Closing Date; and

(e) Government Approvals. All material governmental and third party approvals necessary in connection with the financing contemplated hereby shall have been obtained on terms satisfactory to Agent and shall be in full force and effect.

2.2 Conditions to All Borrowings. Except as otherwise expressly provided herein, no Lender shall be deemed to make, or obligated to fund, any Loan:

(a) if, as of the date thereof, any representation or warranty by any Credit Party contained herein or in any other Loan Document is untrue or incorrect in any material respect (without duplication of any materiality qualifier contained therein) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were untrue or incorrect in any material respect (without duplication of any materiality qualifier contained therein) as of such earlier date); and

(b) if, as of the date thereof, any Default or Event of Default has occurred and is continuing or would reasonably be expected to immediately result after giving effect to any Loan;

provided that with respect to any Incremental Term Loans borrowed in connection with an Acquisition, clauses (a) and (b) shall be limited as set forth in Section 1.12.

The request by the Borrower Representative and acceptance by a Borrower of the proceeds of any Loan shall be deemed to constitute, as of the date thereof, (i) a representation and warranty by the Borrowers that the conditions in this Section 2.2 have been satisfied and (ii) a reaffirmation by each Credit Party of the granting and continuance of Agent's Liens, on behalf of itself and the Secured Parties, pursuant to the Collateral Documents.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

The Credit Parties, jointly and severally, represent and warrant to Agent and each Lender that the following are true, correct and complete:

3.1 Corporate Existence and Power. Each Credit Party and each of their respective Restricted Subsidiaries:

(a) is a corporation, limited liability company or limited partnership, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, as applicable except, in the case of (i) Immaterial Subsidiaries and (ii) any Restricted Subsidiary that is not a Credit Party, to the extent such failure under this clause (ii) would not reasonably be expected to result in a Material Adverse Effect;

(b) after giving effect to the Confirmation Order and the Plan of Reorganization, (i) has the power and authority and all governmental licenses, authorizations, Permits, consents and approvals to own its assets and carry on its business and (ii) has the power and authority and all governmental licenses, authorizations, Permits consents and approvals to execute, deliver, and perform its obligations under, the Loan Documents to which it is a party;

(c) other than with respect to Immaterial Subsidiaries, is duly qualified as a foreign corporation, limited liability company or limited partnership, as applicable, and licensed and in good standing, under the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification or license; and

(d) is in compliance with all Requirements of Law;

except, in each case referred to in clause (b)(i), (c) or (d), to the extent that the failure to do so would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

3.2 Corporate Authorization; No Contravention. After giving effect to the Confirmation Order and the Plan of Reorganization, the execution, delivery and performance by each of the Credit Parties of this Agreement and by each Credit Party and each of their respective Restricted Subsidiaries of any other Loan Document to which such Person is party, have been duly authorized by all necessary action, and do not and will not:

(a) contravene the terms of any of that Person's Organization Documents;

(b) conflict with or result in any material breach or contravention of, or result in the creation of any Lien (other than Permitted Liens) under, any document evidencing any material Contractual Obligation to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject; or

(c) violate any Requirement of Law,

except, in the case of clauses (b) or (c), to the extent that any such conflict, breach, contravention, Lien or violation would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

3.3 Governmental Authorization. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Restricted Subsidiary of any Credit Party of this Agreement, any other Loan Document except (a) for recordings and filings in connection with the Liens granted to Agent under the Collateral Documents, (b) those obtained or made on or prior to the Closing Date and (c) those which, if not obtained or made, would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

3.4 Binding Effect. This Agreement and each other Loan Document to which any Credit Party or any Restricted Subsidiary of any Credit Party is a party constitute the legal, valid and binding obligations of each such Person which is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability (whether enforcement is sought in equity or at law).

3.5 Litigation. After giving effect to the Confirmation Order and the Plan of Reorganization, except as specifically disclosed in Schedule 3.5, there are no actions, suits, proceedings, claims or disputes pending, or to the best knowledge of each Credit Party, threatened in writing or contemplated, at law, in equity, in arbitration or before any Governmental Authority, against any Credit Party, any Restricted Subsidiary of any Credit Party or any of their respective Properties which:

(a) adversely affects, purports to adversely affect or is reasonably expected to adversely affect this Agreement, any other Loan Document, or any of the transactions contemplated hereby or thereby; or

(b) would reasonably be expected to result in a Material Adverse Effect.

No injunction, writ, temporary restraining order or any order of any nature has been issued by any court or other Governmental Authority purporting to enjoin or restrain the execution, delivery or performance of this Agreement, any other Loan Document, or directing that the transactions provided for herein or therein not be consummated as herein or therein provided. As of the Closing Date, no Credit Party or any Restricted Subsidiary of any Credit Party is the subject of an audit or, to each Credit Party's knowledge, any review or investigation by any Governmental Authority (excluding the IRS and other taxing authorities) concerning the violation or possible violation of

any Requirement of Law that either individually, or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

3.6 No Default. No Default or Event of Default exists or would immediately result from the incurring of any Obligations by any Credit Party or the grant or perfection of Agent's Liens on the Collateral. As of the Closing Date, no Credit Party and no Restricted Subsidiary of any Credit Party is in default under or with respect to any Contractual Obligation in any respect which, individually or together with all such defaults, would reasonably be expected to have a Material Adverse Effect.

3.7 ERISA Compliance. Schedule 3.7 sets forth, as of the Closing Date, a complete and correct list of (a) all Title IV Plans sponsored by any Credit Party and (b) all Multiemployer Plans contributed to by any Credit Party. Each Benefit Plan, and each trust thereunder, intended to qualify for tax exempt status under Section 401 or 501 of the Code or other Requirements of Law so qualifies. Except as could not, in the aggregate, have a Material Adverse Effect, (x) each Benefit Plan is in compliance with applicable provisions of ERISA, the Code and other Requirements of Law, (y) there are no existing or pending (or to the knowledge of any Credit Party, threatened) claims (other than routine claims for benefits in the normal course), sanctions, actions, lawsuits or other proceedings or investigation involving any Benefit Plan and (z) no ERISA Event is reasonably expected to occur. As of the Closing Date, no ERISA Event has occurred in connection with which obligations and liabilities (contingent or otherwise) remain outstanding, except as would not reasonably be expected to have a Material Adverse Effect.

3.8 Use of Proceeds; Margin Regulations. The proceeds of the Loans are intended to be and shall be used solely for the refinancing of the Indebtedness outstanding under the Existing Credit Agreement. No Credit Party and no Restricted Subsidiary of any Credit Party is engaged in the business of purchasing or selling Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock. Proceeds of the Loans shall not be used for the purpose of purchasing or carrying Margin Stock for any purpose that violates the provisions of the regulations of the Federal Reserve Board.

3.9 Title to Properties. As of the Closing Date, the Real Estate listed in Schedule 3.9 constitutes all of the Material Real Estate of each Credit Party and each of their respective Restricted Subsidiaries. After giving effect to the Confirmation Order and the Plan of Reorganization, subject to Permitted Liens, each of the Credit Parties and each of their respective Restricted Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, all Real Estate, and good and valid title to all of its material owned personal property and valid leasehold interests in all of its material leased personal property, in each instance, necessary or used in the ordinary conduct of their respective businesses and except as would not, individually, or in the aggregate, reasonably be expected to have a Material Adverse Effect. None of the Property of any Credit Party or any Restricted Subsidiary of any Credit Party is subject to any Liens other than Permitted Liens.

3.10 Taxes. Except with respect to matters set forth on Schedule 3.10, all material federal, state, local and foreign income and franchise and other material tax returns, reports and statements (collectively, the "**Tax Returns**") required to be filed by any Tax Affiliate have been filed with the appropriate Governmental Authorities in all jurisdictions in which such Tax Returns

are required to be filed, all such Tax Returns are true and correct in all material respects with regard to tax liability or taxable income described therein, and, except to the extent that the payment of such taxes is excused or prohibited by the Bankruptcy Code or not otherwise authorized by the Bankruptcy Court with respect to periods prior to the Closing Date, all material taxes, assessments and other governmental charges and impositions reflected therein or otherwise due and payable by a Tax Affiliate have been paid prior to the date on which any material Liability may be added thereto for non-payment thereof except for those contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves are maintained on the books of the appropriate Tax Affiliate in accordance with GAAP. As of the Closing Date, no material Tax Return of a Tax Affiliate is under audit or examination by any Governmental Authority and no written notice of any such audit or examination or any written assertion of any claim for material taxes has been given or made by any Governmental Authority.

3.11 Financial Condition. (i)The audited consolidated balance sheet of Holdings and its Restricted Subsidiaries and the related audited consolidated statements of income, shareholders' equity and cash flows dated December 31, 2018:

(ii) were prepared in accordance with GAAP consistently applied throughout the respective periods covered thereby, except as otherwise expressly noted therein, subject to normal year-end adjustments and the lack of footnote disclosures; and

(iii) present fairly in all material respects the consolidated financial condition of Holdings and its Restricted Subsidiaries as of the dates thereof and results of operations for the periods covered thereby.

(b) Since the Petition Date, there has been no Material Adverse Effect.

(c) All financial performance projections delivered to Agent represent the Borrowers' good faith estimate of future financial performance at the time made and are based on assumptions believed by the Borrowers to be fair and reasonable when made, in light of current market conditions, it being acknowledged and agreed by Agent and the Lenders that any projections furnished to Agent and the Lenders are subject to significant uncertainties and contingencies, which may be beyond Holdings' and its Restricted Subsidiaries' control and that projections as to future events are not to be viewed as facts and that the actual results during the period or periods covered by such projections may differ from the projected results and such differences may be material.

3.12 Environmental Matters. Except as set forth in Schedule 3.12 or except as would not reasonably be expected to result in, either individually or in the aggregate, a Material Adverse Effect, (a) each Credit Party and each Subsidiary of each Credit Party are and have been in compliance with all applicable Environmental Laws, including obtaining, maintaining and complying with all Permits required by any applicable Environmental Law, (b) no Credit Party and no Subsidiary of any Credit Party is party to, and no Real Estate currently owned, leased, subleased, operated or otherwise occupied by or for any such Person is subject to or the subject of, any Contractual Obligation or any pending (or, to the knowledge of any Credit Party, threatened) order, action, investigation, suit, proceeding, audit, claim, demand, dispute or notice of violation or of potential liability or similar notice relating in any manner to any Environmental Law or to

Hazardous Materials, (c) no Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities has attached to any Real Estate currently owned by any Credit Party or any Subsidiary of any Credit Party and, to the knowledge of any Credit Party, no facts, circumstances or conditions exist that could reasonably be expected to result in any such Lien attaching to any such Real Estate, (d) no Credit Party and no Subsidiary of any Credit Party has caused or suffered to occur, or has knowledge of, a Release of Hazardous Materials at, to or from any Real Estate or at any other location to which Hazardous Materials were sent for re-use or recycling or for treatment, storage or disposal, (e) all Real Estate formerly or currently owned, leased, subleased, operated or otherwise occupied by or for any such Credit Party and each Subsidiary of each Credit Party is free of contamination by any Hazardous Materials, (f) no Credit Party and no Subsidiary of any Credit Party (i) is or has been engaged in, or has permitted any current or former tenant to engage in, operations or (ii) knows of any facts, circumstances or conditions, including receipt of any information request or notice of potential responsibility under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) or similar Environmental Laws, that, for each of clauses (i) and (ii) would reasonably be expected to result in a Material Adverse Effect and (g) no Credit Party and no Subsidiary of any Credit Party has expressly assumed or retained any liabilities or obligations of any other Person arising under Environmental Law or relating to Hazardous Materials.

3.13 Regulated Entities. None of any Credit Party, any Person directly controlling any Credit Party, or any Restricted Subsidiary of any Credit Party, is (a) required to be registered as an "investment company" within the meaning of the Investment Company Act of 1940 or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any state public utilities code, or any other Federal or state statute, rule or regulation limiting its ability to incur Indebtedness, pledge its assets or perform its Obligations under the Loan Documents.

3.14 Solvency. After giving effect to the Confirmation Order and the Plan of Reorganization and immediately after giving effect to (a) the Loans made on or prior to the date this representation and warranty is made or deemed to be remade and (b) the consummation of the Transactions, the Credit Parties taken as a whole are Solvent.

3.15 Labor Relations. There are no strikes, work stoppages, slowdowns or lockouts existing, pending (or, to the knowledge of any Credit Party, threatened) against or involving any Credit Party or any Restricted Subsidiary of any Credit Party, except for those that would not, in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as set forth on Schedule 3.15, as of the Closing Date, (a) there is no collective bargaining or similar agreement with any union, labor organization, works council or similar representative covering any employee of any Credit Party or any Restricted Subsidiary of any Credit Party, (b) no petition for certification or election of any such representative is existing or pending with respect to any employee of any Credit Party or any Restricted Subsidiary of any Credit Party and (c) to the knowledge of any Credit Party, no such representative is seeking certification or recognition with respect to any employee of any Credit Party or any Restricted Subsidiary of any Credit Party.

3.16 Intellectual Property. Each Credit Party and each Restricted Subsidiary of each Credit Party owns, or is licensed to use, all Intellectual Property necessary to conduct its business as currently conducted. The conduct and operations of the businesses of each Credit Party and each Restricted Subsidiary of each Credit Party does not infringe, misappropriate, dilute, violate or

otherwise impair any Intellectual Property owned by any other Person and no other Person has contested any right, title or interest of any Credit Party or any Restricted Subsidiary of any Credit Party in, or relating to, any Intellectual Property owned or licensed by such Credit Party or Restricted Subsidiary of such Credit Party.

3.17 Ventures, Subsidiaries and Affiliates; Outstanding Stock. Except as set forth in Schedule 3.17, as of the Closing Date, no Credit Party and no Restricted Subsidiary of any Credit Party has any Restricted Subsidiaries or is engaged in any joint venture or partnership with any other Person. All issued and outstanding Stock and Stock Equivalents of each of the Credit Parties and each of their respective Restricted Subsidiaries are, to the extent such terms are applicable, duly authorized and validly issued, fully paid, non-assessable, and free and clear of all Liens other than, (i) those in favor of Agent, for the benefit of the Secured Parties and (ii) other non-consensual Permitted Liens. All such securities were issued in compliance with all applicable state and federal laws concerning the issuance of securities. As of the Closing Date, all of the issued and outstanding Stock of each Credit Party and each Restricted Subsidiary of each Credit Party is owned by each of the Persons and in the amounts set forth in Schedule 3.17. Except as set forth in Schedule 3.17, as of the Closing Date, there are no pre-emptive or other outstanding rights to purchase, options, warrants or similar rights or agreements pursuant to which any Credit Party may be required to issue, sell, repurchase or redeem any of its Stock or Stock Equivalents or any Stock or Stock Equivalents of its Restricted Subsidiaries.

3.18 Jurisdiction of Organization; Chief Executive Office. Schedule 3.18 lists each Credit Party's jurisdiction of organization, legal name and organizational identification number, if any, and the location of such Credit Party's chief executive office or sole place of business, in each case, as of the Closing Date.

3.19 Full Disclosure. None of the representations or warranties made by any Credit Party or any of their Restricted Subsidiaries in the Loan Documents as of the date such representations and warranties are made or deemed made, and none of the written statements about any Credit Party or any of their Restricted Subsidiaries, in each case, contained in each exhibit, report, written statement or certificate (other than any of the foregoing which constitutes projections, forward-looking statements, budgets, estimates or information of a general market or industry specific nature) furnished by or on behalf of any Credit Party or any of their Restricted Subsidiaries in connection with the Loan Documents (including the offering and disclosure materials, if any, delivered by or on behalf of any Credit Party to Agent or the Lenders prior to the Closing Date and, in such case, as supplemented prior to the Closing Date and excluding information of a general or industry-specific in nature), when taken as a whole, contains any materially untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not materially misleading as of the time when made or delivered (other than any projections, forward-looking statements, budgets, estimates or general industry or market information delivered to Agent and/or the Lenders in accordance with the terms hereof, it being recognized by Agent and the Lenders that (a) such projections, forward-looking statements, budgets and estimates are as to future events and are not to be viewed as facts or as a guarantee of performance or achievement of any particular results, (b) such projections, forward-looking statements, budgets and estimates are subject to significant uncertainties and contingencies many of which are beyond your control, (c) no assurance can be given that any particular financial

projections will be realized and (d) actual results during the period or periods covered by any such projections, forward-looking statements, budgets and estimates may differ significantly from the projected results, and such differences may be material). All projections are, as of the date delivered to Agent, good faith estimates based on reasonable assumptions.

3.20 Foreign Assets Control Regulations and Anti-Money Laundering.

(a) No Credit Party or Subsidiary of a Credit Party is subject to the limitations or prohibitions of any applicable trade or economic sanctions and/or restrictive measures promulgated by the United States, the United Kingdom, the European Union and its Member States, and the United Nations ("**Sanctions**"). No Credit Party or Subsidiary of a Credit Party is (i) subject to comprehensive Sanctions by virtue of their designation to a list of specially designated persons, including the U.S. Department of the Treasury's Specially Designated Nationals and Blocked Persons List, the UK Consolidated List of Financial Sanctions Targets, the EU Consolidated List, and the UN Consolidated Sanctions List (each such Person a "**Sanctioned Person**"), as amended, supplemented or substituted from time to time; (ii) owned 50 percent or more by Sanctioned Persons (individually or in the aggregate); or (iii) controlled by (including without limitation by virtue of such person being a director or owning voting shares or interests), or acting, directly or indirectly, for or on behalf of, any Sanctioned Person or foreign government of a jurisdiction subject to comprehensive Sanctions (including Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) ("**Sanctioned Jurisdiction**") such that the entry into, or performance under, this Agreement or any other Loan Document would be prohibited under Sanctions.

(b) The Credit Parties and their Subsidiaries will not, directly or indirectly, use the proceeds of the Loans to fund any activities or business of or with any Sanctioned Person or Sanctioned Jurisdiction, or otherwise in violation of Sanctions.

3.21 Anti-Money Laundering and Foreign Corrupt Practices Act. The Credit Parties and each of their Subsidiaries are in compliance in all material respects with (a) the Trading with the Enemy Act, the International Emergency Economic Powers Act, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B Chapter V, as amended) and any other enabling legislation or executive order relating thereto, (b) any applicable provisions of the Bank Secrecy Act and other federal or state laws relating to *"know your customer"* and anti-money laundering rules and regulations, and (c) the United States Foreign Corrupt Practices Act (the "**FCPA**") and any other applicable anti-corruption or anti-bribery statute or regulation. All funds paid on the Loans will be the proceeds of legal activity under U.S. and any applicable non-U,S, law. No part of the proceeds of any Loan will be offered, paid, promised, authorized, or used, directly or indirectly, for any payments or any other thing of value to any "foreign official" (as such term is defined by the FCPA) or any political party, official of a political party, candidate for political office, or anyone else acting in an official capacity for or on behalf of the foregoing, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the FCPA.

3.22 Perfection, Etc. All filings and other actions required under the Loan Documents to create, perfect and protect the Lien in the Collateral in favor of Agent, for the benefit of the Secured Parties, securing the Obligations created under the Collateral Documents have been duly

made or taken and are in full force and effect to the extent required therein, and the Collateral Documents create in favor of Agent, for the benefit of the Secured Parties a valid and, together with such filings and other actions, first priority Lien in the Collateral to the extent able to be perfected by such actions, securing the payment of the Obligations, subject to Liens permitted by Section 5.1.

3.23 Beneficial Ownership Certification. The information included in any Beneficial Ownership Certification provided to Agent and/or any Lender in connection with this Agreement is true and correct in all respects as of the date delivered.

ARTICLE IV

AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that, so long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation (other than contingent indemnification Obligations to the extent no claim giving rise thereto has been asserted) shall remain unpaid or unsatisfied, unless the Required Lenders waive compliance in writing:

4.1 Financial Statements. Each Credit Party shall maintain, and shall cause each of its Restricted Subsidiaries to maintain, a system of accounting established and administered in accordance with sound business practices to permit the preparation of financial statements in conformity with GAAP (provided that quarterly financial statements shall not be required to have footnote disclosures and are subject to normal year-end adjustments). The Borrower Representative shall deliver to Agent (copies of which shall be delivered or otherwise made available by Agent to each Lender) by electronic transmission and in detail reasonably satisfactory to Agent:

(a) not later than one hundred twenty (120) days) after the end of each Fiscal Year or, if such delivery date is not a Business Day, the next succeeding Business Day, a copy of the audited (or, with respect to [(x) the Fiscal Year ended December 31, 2019, unaudited, and (y)][1] the Fiscal Year ending December 31, 2020, covering only the period from February 1, 2020 through December 31, 2020) consolidated balance sheets of Holdings and each of its Restricted Subsidiaries as at the end of such Fiscal Year and the related consolidated statements of income or operations, shareholders' equity and cash flows for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, and accompanied by the report of a nationally-recognized independent public accounting firm reasonably acceptable to Agent (which report shall (i) contain an unqualified opinion, stating that such consolidated financial statements present fairly in all material respects the financial position for the periods indicated in conformity with GAAP applied on a basis consistent with prior years and (ii) not include any explanatory paragraph expressing substantial doubt as to going concern status; provided, that, it shall not be a violation of this clause (a) if the opinion accompanying the financial statements for the Fiscal Year ending December 31, 2023 is subject to a "going concern" or like qualification solely as a result of the impending maturity of the Loans under this Agreement); and

[1] NTD: To be discussed.

(b) not later than forty-five (45) days (or, with respect to each of the Fiscal Quarters ending March 31, 2020 and June 30, 2020, sixty (60) days) after the end of each Fiscal Quarter (commencing with the Fiscal Quarter ending March 31, 2020), a copy of the unaudited consolidated balance sheets of Holdings and each of its Restricted Subsidiaries, and the related consolidated statements of income, shareholders' equity and cash flows as of the end of such Fiscal Quarter and for the portion of the Fiscal Year then ended, all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrower Representative as fairly presenting, in all material respects, in accordance with GAAP, the financial position and the results of operations of Holdings and its Restricted Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures.

(c) not later than the thirtieth (30^{th}) day (or, with respect to each Fiscal Month ending on or prior to June 30, 2020, the forty-fifth (45^{th}) day) following the end of each Fiscal Month, an unaudited income statement, a statement of cash flows and a balance sheet of the Credit Parties for (i) such Fiscal Month, and (ii) for the period from the beginning of the then-current Fiscal Year to the end of such Fiscal Month, in each case setting forth in comparative form the corresponding figures for the applicable period in the prior Fiscal Year, in the same form as the unaudited monthly financial reports previously delivered, and including a calculation of adjusted EBITDA (including a reconciliation to EBITDA calculated in accordance with GAAP) and certified by a Responsible Officer of the Borrower Representative as fairly presenting in all material respects the financial condition, results of operations and cash flows of Holdings and its Restricted Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures.

4.2 Certificates; Other Information. The Borrowers shall furnish to Agent (copies of which shall be delivered or otherwise made available to the Lenders by Agent to each Lender by electronic transmission):

(a) together with each delivery of financial statements pursuant to Sections 4.1(a) and 4.1(b), a management discussion and analysis report, in reasonable detail, signed by the chief financial officer of the Borrower Representative, describing the operations and financial condition of the Credit Parties and their Restricted Subsidiaries for the Fiscal Quarter and the portion of the Fiscal Year then ended (or for the Fiscal Year then ended in the case of annual financial statements), and (ii) a report setting forth in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year and the corresponding figures from the most recent projections for the current Fiscal Year delivered pursuant to Section 4.2(f) and discussing the reasons for any significant variations;

(b) concurrently with the delivery of the financial statements referred to in Sections 4.1(a) and 4.1(b) above, a fully and properly completed Compliance Certificate in the form of Exhibit 4.2(b), certified on behalf of the Borrowers by a Responsible Officer of the Borrower Representative;

(c) promptly after the same are filed, copies of all financial statements and regular, periodic or special reports which such Person may make to, or file with, the Securities and Exchange Commission or any successor or similar Governmental Authority;

(d) promptly after any reasonable request therefor by Agent or any Lender, all information and documentation (including, without limitation, a Beneficial Ownership Certification) in order to comply with Agent's or any Lender's ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act, and the Beneficial Ownership Regulation;

(e) prompt written notice of any change in the information provided in any Beneficial Ownership Certification delivered to Agent or any Lender that would result in a change to the list of beneficial owners identified in such Beneficial Ownership Certification;

(f) no later than sixty (60) days after the beginning of each Fiscal Year of Holdings, projections of the Credit Parties (and their Restricted Subsidiaries') consolidated financial performance for the forthcoming Fiscal Year on a quarter by quarter basis;

(g) promptly upon receipt thereof, copies of any reports submitted by the Credit Parties' certified public accountants in connection with each annual, interim or special audit of any type of the financial statements or internal control systems of any Credit Party and any reviewed financial statements of the Credit Parties made by such accountants, including any comment letters submitted by such accountants to management of any Credit Party in connection with their services;

(h) from time to time, if Agent determines in good faith that obtaining appraisals is reasonably necessary in order for Agent or any Lender to comply with applicable laws or regulations (including any appraisals required to comply with FIRREA), and at any time if an Event of Default shall have occurred and be continuing, Agent may, or may require the Borrowers to, in either case at the Borrowers' expense, obtain appraisals in form and substance (it being understood that "substance" shall not include the value of the collateral being appraised, which value shall not be subject to satisfaction of Agent or any Lender) and from appraisers reasonably satisfactory to Agent stating the then current fair market value of all or any portion of the personal property of any Credit Party or any Restricted Subsidiary of any Credit Party and the fair market value of any material Real Estate owned in fee simple by any Credit Party or any Restricted Subsidiary of any Credit Party; and

(i) promptly, such additional business, financial, corporate affairs, perfection certificates and other information as Agent may from time to time reasonably request, but in any event excluding information that is otherwise privileged to the extent such privilege would be destroyed by providing such information to Agent or Lenders or is otherwise subject to a confidentiality obligation with a Person other than an Affiliate.

4.3 Notices. The Borrowers shall notify promptly Agent and each Lender of each of the following (and in no event later than five (5) Business Days after a Responsible Officer of any Credit Party becoming aware thereof or such later time as Agent may agree in its sole discretion):

(a) the occurrence or existence of any Default or Event of Default;

(b) any breach or non-performance of, or any default under, any Contractual Obligation of any Credit Party or any Subsidiary of any Credit Party, or any violation of, or non-compliance with, any Requirement of Law, in each case, which would reasonably be expected to result, either individually or in the aggregate, in a Material Adverse Effect, including a description of such breach, non-performance, default, violation or non-compliance and the steps, if any, such Person has taken, is taking or proposes to take in respect thereof;

(c) the occurrence of a Change of Control;

(d) any dispute, litigation, investigation, proceeding or suspension which may exist at any time between any Credit Party or any Restricted Subsidiary of any Credit Party and any Governmental Authority which would reasonably be expected to result, either individually or in the aggregate, in a Material Adverse Effect;

(e) the commencement of, or any material development in, any litigation or proceeding against any Credit Party or any Restricted Subsidiary of any Credit Party that in each case has resulted in, or could reasonably be expected to result in, if adversely determined, a Material Adverse Effect;

(f) (i) the receipt by any Credit Party or any Subsidiary of any Credit Party of any notice of violation of or potential liability or similar notice relating in any manner to any Environmental Law or to Hazardous Materials or the commencement of, or any material change to, any action, investigation, suit, proceeding, audit, claim, demand or dispute alleging a violation of order, any Environmental Law or any Environmental Liability or relating to Hazardous Materials or (ii) the conduct of any investigation, or any removal, remedial or other corrective action in response to the actual or alleged presence, Release or threatened Release of any Hazardous Material on, at, under or from any Real Estate, which in the case of clauses (i) and (ii) above, in the aggregate for all such clauses, would reasonably be expected to result in a Material Adverse Effect; (iii) the receipt by any Credit Party or any Subsidiary of any Credit Party of notification that any Real Estate currently owned by any Credit Party or any subsidiary of any Credit Party is subject to any Lien (other than a Permitted Lien) in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities, that would reasonably be expected to have a Material Adverse Effect; and (iv) any proposed acquisition or lease of Real Estate, if such acquisition or lease would reasonably be expected to have a Material Adverse Effect relating to Environmental Laws or Hazardous Materials;

(g) The occurrence of an ERISA Event that, individually or in the aggregate, would reasonably be expected to result in a Material Adverse Effect;

(h) any amendment, modification, or material change to any Credit Parties' or their Restricted Subsidiaries' (i) legal name as it appears in official filings in its jurisdiction or organization, (ii) jurisdiction of formation or organization, and/or (iii) organizational documents;

(i) any Material Adverse Effect;

(j) any material change in accounting policies or financial reporting practices by any Credit Party or any Restricted Subsidiary of any Credit Party;

(k) any labor controversy resulting in or threatening to result in any strike, work stoppage, boycott, shutdown or other labor disruption against or involving any Credit Party or any Restricted Subsidiary of any Credit Party if the same would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect; and

(l) (i) the creation, or filing with the IRS or any other Governmental Authority, of any Contractual Obligation or other document extending, or having the effect of extending, the period for assessment or collection of any material income, franchise or other material taxes with respect to any Tax Affiliate and (ii) the creation of any Contractual Obligation of any Tax Affiliate, or the receipt of any request directed to any Tax Affiliate, to make any adjustment under Section 481(a) of the Code, by reason of a change in accounting method or otherwise, which, in the cases of clauses (i) and (ii), would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Each notice pursuant to this Section 4.3 shall be in electronic form accompanied by a statement by a Responsible Officer of the Borrower Representative, on behalf of the Borrowers, setting forth details of the occurrence referred to therein, and stating what action the Borrowers or other Person proposes to take with respect thereto and at what time. Each notice under Section 4.3(a) shall describe with reasonable particularity any and all clauses or provisions of this Agreement or other Loan Document that have been breached or violated.

4.4 ERISA Events and Report. Except as would not result in a Material Adverse Effect, each Credit Party shall provide Agent with (a) a statement describing any ERISA Event within ten (10) days of such event; (b) any notice from PBGC of its intent to terminate a Benefit Plan within ten (10) days of receipt of such notice; and (c) copies of any notice of the imposition on a Credit Party of any withdrawal liability regarding a Multiemployer Plan.

4.5 Preservation of Corporate Existence, Etc. Each Credit Party shall, and shall cause each of its Restricted Subsidiaries to:

(a) preserve and maintain in full force and effect its organizational existence and good standing under the laws of its jurisdiction of incorporation, organization or formation, as applicable, except, with respect to any Immaterial Subsidiary, any Restricted Subsidiary of Intermediate Holdings (other than any Borrower) in connection with transactions permitted by Section 5.3 and with respect to any Restricted Subsidiary that is not a Credit Party, to the extent such failure would reasonably be expected to result in a Material Adverse Effect;

(b) preserve and maintain in full force and effect all rights, privileges, qualifications, permits, licenses and franchises necessary in the normal conduct of its business except in connection with transactions permitted by Section 5.3 and sales of assets permitted by Section 5.2 and except as would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect;

(c) preserve or renew all of its registered Trademarks (other than Credit Parties' intentional failure to preserve or renew that are in the Ordinary Course of Business and consistent with past practice); and

(d) conduct its business and affairs without any known infringement of or interference with any Intellectual Property of any other Person in any respect and shall comply in all respects with the terms of its IP Licenses.

4.6 Maintenance of Property. Each Credit Party shall maintain, and shall cause each of its Restricted Subsidiaries to maintain, and preserve all its tangible Property which is used or useful in its business in good working order and condition, ordinary wear and tear, casualty and condemnation excepted and shall make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.7 Insurance.

(a) Each Credit Party shall, and shall cause each of its Restricted Subsidiaries to, (i) maintain or cause to be maintained in full force and effect all policies of insurance of any kind with respect to the property and businesses of the Credit Parties and such Restricted Subsidiaries (including policies of fire, theft, product liability, public liability, Flood Insurance, property damage, other casualty, employee fidelity, workers' compensation, business interruption and employee health and welfare insurance) with financially sound and reputable insurance companies or associations (in each case that are not Affiliates of the Borrowers) of a nature and providing such coverage as is sufficient and as is customarily carried by businesses of the size and character of the business of the Credit Parties and (ii) cause all such insurance (other than workers' compensation insurance, directors and officers insurance, employee health and welfare insurance and business interruption insurance) relating to any property or business of any Credit Party to name Agent as additional insured or loss payee, as appropriate. All policies of insurance on real and personal property of the Credit Parties will contain an endorsement, in form and substance reasonably acceptable to Agent, showing loss payable to Agent (Form CP 1218 or equivalent) and extra expense endorsements. Such endorsement, or an independent instrument furnished to Agent, will provide that the insurance companies will endeavor to give Agent at least thirty (30) days' (ten (10) days' in the case of non-payment) prior written notice before any such policy or policies of insurance shall be altered or canceled and that no act or default of the Credit Parties or any other Person shall affect the right of Agent to recover under such policy or policies of insurance in case of loss or damage. Each Credit Party shall direct all present and future insurers under its "All Risk" policies of property insurance to pay all proceeds payable thereunder directly to Agent, subject to the Borrower's rights under Section 1.7(b) (and Agent agrees that it shall provide any necessary endorsement to any check or other instrument representing the payment of insurance proceeds such that the Borrowers may reinvest the proceeds thereof subject to and in accordance with the provisions of Section 1.7(b)). If any insurance proceeds are paid by check, draft or other instrument payable to any Credit Party and Agent jointly, Agent may endorse such Credit Party's name thereon and do such other things as Agent may deem advisable to reduce the same to cash, subject to the Borrowers' rights under Section 1.7(b) (and Agent agrees that it shall provide any necessary endorsement to check or other instrument representing the payment of insurance proceeds such that the Borrowers may reinvest the proceeds thereof subject to and in accordance with the provisions of Section 1.7(b)). Agent reserves the right at any time, upon review of each Credit Party's risk profile, if it determines in good faith that there has been a material increase in such risk profile from that in effect on the Closing Date, to require additional forms and limits of insurance that are sufficient and customary and commercially reasonably available based on such

profile. Notwithstanding the requirement in clause (i) above, Flood Insurance shall not be required for (x) Real Estate not located in a Special Flood Hazard Area, (y) Real Estate located in a Special Flood Hazard Area in a community that does not participate in the National Flood Insurance Program or (z) Real Estate not included as Collateral; provided that, in the case of clause (y), Agent may require private Flood Insurance if such private Flood Insurance is available.

(b) Unless the Credit Parties provide Agent with evidence of the insurance coverage required by this Agreement, Agent may, upon prior written notice to the Borrower Representative, purchase insurance at the Credit Parties' expense to protect Agent's and the Lenders' interests, including interests in the Credit Parties' and their Restricted Subsidiaries' properties. This insurance may, but need not, protect the Credit Parties' and their Restricted Subsidiaries' interests. The coverage that Agent purchases may or may not pay any claim that any Credit Party or any Restricted Subsidiary of any Credit Party makes or any claim that is made against such Credit Party or any Restricted Subsidiary in connection with said Property. The Borrowers may later cancel any insurance purchased by Agent, but only after providing Agent with evidence that there has been obtained insurance as required by this Agreement. If Agent purchases insurance, the Credit Parties will be responsible for the costs of that insurance, including interest and any other reasonable charges Agent may impose in connection with the placement of insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance shall be added to the Obligations. The costs of the insurance may be more than the cost of insurance the Borrowers may be able to obtain on their own.

4.8 Payment of Obligations. Such Credit Party shall, and shall cause each of its Restricted Subsidiaries to, pay, discharge and perform as the same shall become due and payable or required to be performed, all material tax liabilities (except to the extent that the payment of such taxes is excused or prohibited by the Bankruptcy Code or not otherwise authorized by the Bankruptcy Court with respect to periods prior to the Closing Date), assessments and governmental charges or levies upon it or its Property, unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the enforcement of any related Lien and for which adequate reserves in accordance with GAAP are being maintained by such Person.

4.9 Compliance with Laws. Each Credit Party shall, and shall cause each of its Restricted Subsidiaries to, comply with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except (a)(i) as such may be contested in good faith by appropriate proceedings and (ii) for which appropriate reserves as required by GAAP have been established on the relevant Borrower's financial statements or (b) where the failure to comply would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.10 Inspection of Property and Books and Records. Each Credit Party shall maintain and shall cause each of its Restricted Subsidiaries to maintain proper books of record and account, in which materially full, true and correct entries sufficient to permit the preparation of financial statements of the type required in Sections 4.1(a), 4.1(b), and 4.1(c) in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of such Person. Each Credit Party shall, and shall cause each of its Restricted Subsidiaries to, with respect to each owned, leased, or controlled property, during normal business hours and

upon reasonable advance notice (unless an Event of Default shall have occurred and be continuing, in which event no notice shall be required and Agent shall have access during normal business hours at any and all times during the continuance thereof): (a) provide access to such property to Agent and any of its Related Persons, as frequently as Agent reasonably determines to be appropriate; and (b) permit Agent and any of its Related Persons to conduct field examinations, conduct non-subsurface environmental assessments, audit, inspect, and make extracts and copies (or take originals if reasonably necessary for the purpose of realizing upon Collateral during the continuance of an Event of Default) from all of such Credit Party's books and records, and evaluate and make physical verifications and appraisals of the Inventory and other Collateral in any manner and through any medium that Agent considers advisable, in each instance, at the Credit Parties' expense; provided that Agent and its Related Persons shall only conduct one such field examination, audit or inspection and the Credit Parties shall only be obligated to reimburse Agent for the expenses of one such field examination, audit and inspection per calendar year unless an Event of Default has occurred and is continuing.

4.11 Quarterly Update Calls. Commencing with the Fiscal Quarter ending March 31, 2020 at a time and date agreed to as among the Required Lenders and the Borrowers, and occurring each Fiscal Quarter thereafter, management of the Borrowers shall hold two (2) quarterly telephonic meetings. One meeting shall be with Public Lenders and their respective advisors and counsel and, in the event that Agent elects to attend such meeting (without having any obligation to do so and for informational purposes only), Agent, and the other meeting which shall be with non-Public Lenders and their respective advisors and counsel, in each case to update the Lenders and, in the event that Agent elects to attend such meeting (without having any obligation to do so), Agent on financing results, operations, and various business and legal matters.

4.12 Further Assurances.

(a) Each Credit Party shall ensure that all written information, exhibits and reports (other than any statement which constitutes, projections, forward looking statements, budget estimates or general market or industry information) furnished to Agent or the Lenders do not and will not, when taken as a whole at the time so furnished, contain any untrue statement of a material fact and do not and will not, when taken as a whole at the time so furnished, omit to state any material fact or any fact necessary to make the statements contained therein not materially misleading in light of the circumstances in which made, and will promptly disclose to Agent and the Lenders and correct any defect or error that may be discovered therein or in any Loan Document or in the execution, acknowledgement or recordation thereof; provided that, Agent and the Lenders recognize and agree that any projections, forward-looking statements, budgets or estimates furnished to Agent and the Lenders are as to future events and are not to be viewed as facts or a as guarantee of performance or achievement of any particular results, are subject to significant uncertainties and contingencies which may be beyond the Credit Parties' and their Restricted Subsidiaries' control, no assurance is given by the Credit Parties and their Restricted Subsidiaries that such projections, forward-looking statements, budgets or estimates will be realized and the actual results may differ from such projections, forward-looking statements, budgets or estimates and such differences may be material.

(b) Promptly upon reasonable request by Agent, the Credit Parties shall (and, subject to the limitations hereinafter set forth or otherwise set forth in the Collateral Documents,

shall cause each of their Subsidiaries to) take such additional actions and execute such documents as Agent may reasonably require from time to time in order (i) to subject to the Liens created by any of the Collateral Documents any of the Properties, rights or interests covered by any of the Collateral Documents (subject to the limitations herein and in the Collateral Documents), (ii) to perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and the Liens intended to be created thereby (subject to the limitations herein and in the Collateral Documents and Liens permitted under Section 5.1), and (iii) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to the Secured Parties the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document (subject to the limitations herein and in the Collateral Documents and Liens permitted under Section 5.1).

(c) Subject to the limitations set forth in this Agreement and the other Loan Documents, with respect to any personal property (other than any Excluded Property) acquired after the Closing Date by any Credit Party that is intended to be subject to the Lien created by any of the Collateral Documents but is not so subject, promptly (and in any event within sixty (60) days after the acquisition thereof or such longer period as determined by Agent in its sole discretion) (i) execute and deliver to Agent such amendments or supplements to the relevant Collateral Documents or such other documents as Agent shall deem reasonably necessary to grant to Agent, for its benefit and for the benefit of the other Secured Parties, a Lien on such property subject to no Liens other than Permitted Liens, and (ii) take all actions necessary to cause such Lien to be duly perfected to the extent required by such Collateral Document in accordance with all applicable Requirements of Law, including the filing of financing statements in such jurisdictions as may be reasonably requested by Agent. The Borrowers shall otherwise take such actions and execute and/or deliver to Agent such documents as Agent shall reasonably require to confirm the validity, perfection and priority of the Lien of the Collateral Documents on such after-acquired properties. Notwithstanding anything set forth herein or in any other Loan Document to the contrary, under no circumstances shall any Credit Party be required to take any actions outside of the United States to create or perfect any Lien on any non-United States assets or assets that require action under the law of any non-United States jurisdiction to create or perfect a security interest in such assets, including any intellectual property registered in any non-United States jurisdiction (and no security agreements or pledge agreements governed under the laws of any non-United States jurisdiction shall be required).

(d) Promptly (and, in any event, within sixty (60) days of the formation or acquisition of any Restricted Subsidiary (other than any Excluded Subsidiary) or such longer period as Agent may agree to in its sole discretion) without limiting the generality of the foregoing and except as otherwise approved in writing by Required Lenders, the Credit Parties shall cause each of their Domestic Subsidiaries (other than Excluded Subsidiaries) (i) to guaranty the Obligations pursuant to a Guaranty and Security Agreement (an "**Additional Guarantor**"), (ii) to grant to Agent, for the benefit of the Secured Parties, a security interest in, subject to the limitations hereinafter set forth, all of such Additional Guarantor's Property (other than Excluded Property) to secure such guaranty and (iii) to pledge all of the Stock and Stock Equivalents owned by it in each of its directly-owned Restricted Subsidiaries (other than Excluded Subsidiaries); provided that each Additional Guarantor shall grant a security interest in and pledge Stock or Stock Equivalents of each of its Excluded First Tier Subsidiaries in an amount equal to exceed sixty-five percent (65%) (or such lesser percentage as may be agreed to by Required Lenders in their sole discretion) of such Excluded First Tier Subsidiary's outstanding voting Stock and Stock

Equivalents and one hundred percent (100%) of such Excluded First Tier Subsidiary's outstanding non-voting Stock and Stock Equivalents. For purposes of this Sections 4.12(d), an "**Excluded First Tier Subsidiary**" is a U.S. Foreign Holdco or a CFC Subsidiary, in each case, that is directly owned by an Additional Guarantor. A "**CFC Subsidiary**" is any Subsidiary that is, or is owned directly or indirectly through, a "controlled foreign corporation" within the meaning of Section 957 of the Code. In connection with each pledge of Stock and Stock Equivalents pursuant to this Section 4.12(d), the Credit Parties shall deliver, or cause to be delivered, to Agent, irrevocable proxies and stock powers and/or assignments, as applicable, duly executed in blank.

(e) In the event any Credit Party acquires fee simple title to any Material Real Estate, such Person shall, as soon as reasonably practicable but in any event within ninety (90) days after such acquisition (or such later date as Agent may agree), execute and/or deliver, or cause to be executed and/or delivered, to Agent, (u) if requested by Agent, an appraisal complying with FIRREA, (v) with respect to Material Real Estate located in a Special Flood Hazard Area, a duly executed completed "Life-of-Loan" FEMA Standard Flood Hazard Determination (together with a notice about special flood hazard area status and flood disaster assistance) and evidence of Flood Insurance as required by Section 4.7(a), (w) a fully executed Mortgage, in form and substance reasonably satisfactory to Agent together with a fully paid A.L.T.A. lender's title insurance policy issued by a title insurer reasonably satisfactory to Agent (the "**Title Insurance Company**"), in form and substance and with endorsements and in an amount reasonably satisfactory to Agent, insuring that the Mortgage is a valid and enforceable first priority Lien on the respective property, free and clear of all defects, encumbrances and Liens (other than Permitted Liens), and providing for such other affirmative insurance and such coinsurance and direct access reinsurance as Agent may deem necessary or desirable to the extent reasonably requested, (x) A.L.T.A. surveys, for which all necessary fees (where applicable) have been paid, certified to Agent and the Title Insurance Company by a licensed surveyor sufficient to allow Title Insurance Company to issue the lender's title insurance policy without a survey exception and to issue all available survey-related endorsements (or, if with a survey exception, only such survey exceptions as are reasonably satisfactory to Agent), and (y) an opinion of local counsel related to the Mortgage referred to above, in form and substance reasonably satisfactory to Agent. In addition to the obligations set forth in Sections 4.7(a) and 4.14(e)(v), within sixty (60) days (or such longer period as Agent may agree in its sole discretion) after written notice from Agent to the Credit Parties that any Real Estate subject to a Mortgage is located in a Special Flood Hazard Area, the Credit Parties shall satisfy the Flood Insurance requirements of Sections 4.7(a) and 4.14(e)(v). Notwithstanding anything set forth herein to the contrary, under no circumstances shall any environmental assessment reports be required hereunder.

(f) Notwithstanding anything to the contrary contained herein or in any other Loan Document, if Agent determines in its sole discretion that the cost of obtaining any guaranty, pledge or security interest otherwise required pursuant to this Section 4.12 or any other Loan Document is excessive in relation to the benefit thereof, then no such guaranty, pledge or security interest shall be required hereunder or under any other Loan Document. Furthermore, notwithstanding anything set forth herein or in any other Loan Document to the contrary, under no circumstances shall any Credit Party be required to take any actions outside of the United States to grant a guaranty or to create or perfect any Lien on any non-United States assets or assets that require action under the law of any non-United States jurisdiction to grant such guaranty or to create or perfect a security interest in such assets, including any intellectual property registered in

any non-United States jurisdiction (and no guaranty agreements, security agreements or pledge agreements governed under the laws of any non-United States jurisdiction shall be required).

4.13 Environmental Matters. Each Credit Party shall, and shall cause each of its Subsidiaries to, (i) comply with, and maintain its Real Estate, whether owned, leased, subleased or otherwise operated or occupied, in compliance with, all applicable Environmental Laws, (ii) promptly comply with all orders and directives of all Governmental Authorities relating to Environmental Laws or Hazardous Materials (including by implementing any Remedial Action necessary to achieve such compliance), and (iii) promptly respond to any Release of Hazardous Materials as required of such Credit Party by Environmental Law, except in each case of (i), (ii) and (iii) above where the failure to comply would not reasonably be expected to, individually or in the aggregate, result in a Material Adverse Effect.

4.14 Post-Closing Obligations. Notwithstanding the conditions precedent set forth in Article II above, the Borrower Representative has informed Agent and the Lenders that certain of such items required to be delivered to Agent or otherwise satisfied as conditions precedent to the effectiveness of this Agreement will not be delivered to Agent as of the date hereof. Therefore, with respect to the items set forth on Schedule 4.14 or pursuant to any letter agreement among the Borrowers, the Borrower Representative and Agent (collectively, the "**Outstanding Items**"), and notwithstanding anything to the contrary contained herein or in any other Loan Document, the Borrowers shall deliver or otherwise satisfy each Outstanding Item to Agent in the form, manner and time (which time may be extended as determined by Agent acting in its sole discretion) set forth thereon for such Outstanding Item or as Agent may otherwise agree in its reasonable credit judgment.

4.15 Ratings. The Credit Parties shall use commercially reasonable efforts to obtain, within thirty (30) days after the Closing Date, updated Moody's and S&P public monitored corporate family and corporate credit ratings (but for the avoidance of doubt, not a specific rating) and, in the event that any such ratings are obtained, the Credit Parties shall use commercially reasonable efforts to maintain such ratings.[2]

4.16 Fiscal Year; Fiscal Quarter. The Credit Parties shall, and shall cause each of its Subsidiaries to, maintain a Fiscal Year ending on December 31 of each calendar year, and a Fiscal Quarter end on March 31, June 30, September 30 and December 31 of each calendar year.

4.17 Designation of Unrestricted Subsidiaries. The board of directors of the Borrower Representative may at any time designate any Restricted Subsidiary (including any such Restricted Subsidiary acquired or formed subsequent to the Closing Date) as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that, immediately before and after such designation, (i) no Default or Event of Default shall have occurred and be continuing and (ii) the Net Leverage Ratio calculated on a Pro Forma Basis as of the Applicable Date of Determination shall not exceed 3.00:1.00. The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by its direct parent therein at the date of designation in an amount equal to the fair market value of such Person's (as applicable) investment therein and the Investment resulting from such designation must otherwise be in compliance with Section 5.4. The

[2] NTD: To be discussed.

designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness or Liens of such Subsidiary existing at such time. Notwithstanding anything set forth herein to the contrary, it is agreed and understood that Unrestricted Subsidiaries shall not be subject to Articles III, IV, V or VII.

ARTICLE V

NEGATIVE COVENANTS

Each Credit Party covenants and agrees that, so long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation (other than contingent indemnification Obligations to the extent no claim giving rise thereto has been asserted) shall remain unpaid or unsatisfied (it being agreed that for purposes of this Article V, the term "Credit Party" and "Credit Parties" shall be deemed not to include Holdings) except with respect to:

5.1 Limitation on Liens. No Credit Party shall, and no Credit Party shall suffer or permit any of its Restricted Subsidiaries to, directly or indirectly, make, create, incur, assume or suffer to exist any Lien upon or with respect to any part of its Property, whether now owned or hereafter acquired, other than the following ("**Permitted Liens**"):

(a) any Liens securing Indebtedness outstanding under the Working Capital Facility, subject to the Applicable Intercreditor Agreement;

(b) any Liens securing Indebtedness outstanding under a Qualified Factoring Facility;

(c) any Lien existing on the Property of a Credit Party or a Restricted Subsidiary of a Credit Party on the Closing Date and set forth in Schedule 5.1 securing Indebtedness outstanding on such date and permitted by Section 5.5, including replacement Liens on the Property currently subject to such Liens securing Indebtedness permitted by Section 5.5;

(d) any Lien created under any Loan Document, Additional Term Notes, Unrestricted Additional Term Notes and Permitted Refinancings of any of the foregoing, subject to the Applicable Intercreditor Agreement;

(e) Liens for taxes, fees, assessments or other governmental charges (except to the extent such Taxes are excused or prohibited by the Bankruptcy Code or not otherwise authorized by the Bankruptcy Court with respect to periods prior to the Closing Date) including, for the avoidance of doubt, such Liens imposed by ERISA, (i) which are not delinquent or remain payable without penalty, (ii) the non-payment of which is permitted by Section 4.8, or (iii) to the extent being contested in good faith by appropriate proceedings diligently prosecuted which stay the enforcement of such Lien and for which adequate reserves in accordance with GAAP are being maintained by such Person;

(f) carriers', warehousemen's, mechanics', landlords', materialmen's, repairmen's or other similar Liens arising in the Ordinary Course of Business which relate to sums not delinquent for more than ninety (90) days or remain payable without penalty or which are being contested in good faith and by appropriate proceedings diligently prosecuted, which

proceedings have the effect of preventing the forfeiture or sale of the Property subject thereto and for which adequate reserves in accordance with GAAP are being maintained;

(g) Liens (other than any Lien imposed by ERISA) consisting of pledges or deposits required in the Ordinary Course of Business in connection with workers' compensation, unemployment insurance and other social security legislation or to secure the performance of tenders, statutory obligations, surety, stay, customs and appeals bonds, bids, leases, governmental contract, trade contracts, performance and return of money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money) or to secure liability to insurance carriers;

(h) Liens consisting of judgment or judicial attachment liens (other than for payment of taxes, assessments or other governmental charges) to the extent not constituting an Event of Default under Section 7.1(h);

(i) easements, encroachments, covenants, equitable servitudes, rights-of-way, zoning, land use, building and other restrictions, minor defects or other irregularities in title, and other similar encumbrances incurred in the Ordinary Course of Business which, either individually or in the aggregate do not in any case interfere in any material respect with the ordinary conduct of the businesses of any Credit Party or any Restricted Subsidiary of any Credit Party;

(j) Liens on any Property acquired or held by any Credit Party or any Restricted Subsidiary of any Credit Party securing Indebtedness incurred or assumed for the purpose of financing (or refinancing) all or any part of the cost of acquiring or constructing such Property and permitted under Section 5.5(e) or in connection with a Sale-Leaseback transaction permitted under Section 5.13; provided that (i) any such Lien attaches to such Property concurrently with or within sixty (60) days after the acquisition or construction thereof, (ii) such Lien attaches solely to the Property so acquired or constructed in such transaction and accessions thereto and the proceeds thereof, and (iii) the principal amount of the debt secured thereby does not exceed one hundred percent (100%) of the cost of such Property (plus any capitalized interest, fees and expenses thereon);

(k) Liens securing Capital Lease Obligations permitted under Section 5.5(e);

(l) any interest or title of a lessor or sublessor under any lease permitted by this Agreement;

(m) Liens arising from precautionary UCC financing statements filed under any lease permitted by this Agreement;

(n) non-exclusive licenses and sublicenses granted by a Credit Party or any Restricted Subsidiary of a Credit Party and leases and subleases (by a Credit Party or any Restricted Subsidiary of a Credit Party as lessor or sublessor) to third parties in the Ordinary Course of Business not interfering in any material respect with the business of the Credit Parties or any of their Restricted Subsidiaries;

(o) Liens in favor of collecting banks arising under Section 4-210 of the UCC or, with respect to collecting banks located in the State of New York, under Section 4-208 of the

UCC and customary rights of setoff, revocation, refund or chargeback under deposit agreements or under the UCC of banks or other financial institutions or with respect to Foreign Subsidiaries, under the relevant applicable law;

(p) Liens (including the right of set-off) in favor of a bank or other depository institution arising as a matter of law encumbering deposits;

(q) Liens arising out of consignment or similar arrangements for the sale of goods entered into by a Credit Party or any Restricted Subsidiary of a Credit Party in the Ordinary Course of Business;

(r) Liens in favor of customs and revenue authorities arising as a matter of law which secure payment of customs duties in connection with the importation of goods in the Ordinary Course of Business;

(s) Liens on cash collateral used to secure any judgment appeal in an amount and pursuant to procedures, in each case customary for such judgment appeal Liens.

(t) Liens of counterparties attaching solely to cash earnest money deposits made by the Credit Parties or any of their respective Restricted Subsidiaries in connection with any letter of intent or purchase agreement entered into with respect to Capital Expenditures otherwise permitted hereunder;

(u) Liens deemed to exist in connection with repurchase agreements and other similar Investments to the extent such Investments are permitted under Section 5.4;

(v) other Liens; provided that the aggregate outstanding amount of the obligations secured thereby does not exceed the greater of (x) $5,000,000 at the time of incurrence and (y) 2.50% of Consolidated Total Assets as of the Applicable Date of Determination;

(w) any Lien existing on any property or asset prior to the acquisition thereof by Holdings or any Restricted Subsidiary in connection with an Acquisition permitted hereunder or existing on any property or asset of any Person that became or becomes a Restricted Subsidiary after the Closing Date prior to the time such Person became or becomes a Restricted Subsidiary in connection with an Acquisition permitted hereunder; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Restricted Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or asset of Holdings or any Restricted Subsidiary (other than any replacements of such property or assets and additions and accessions thereto and the proceeds and the products thereof and customary security deposits in respect thereof and in the case of multiple financings of equipment provided by any lender, other equipment financed by such lender) and (iii) such Lien shall secure only those obligations (and to the extent such obligations constitute Indebtedness, such Indebtedness is permitted hereunder) that it secures on the date of such acquisition or the date such Person becomes a Restricted Subsidiary, as the case may be, and extensions, renewals and replacements thereof so long as the principal amount of such extensions, renewals and replacements does not exceed the principal amount of the obligations being extended, renewed or replaced (plus any accrued but unpaid interest (including any portion thereof which is payable in kind in accordance with the

terms of such extended, renewed or replaced Indebtedness) and premium payable by the terms of such obligations thereon and fees and expenses associated therewith);

(x) Liens on insurance policies and the proceeds thereof granted in the ordinary course of business to secure the financing of insurance premiums with respect thereto under Section 5.5(h); and

(y) Liens on assets or property of any Restricted Subsidiary that is not a Credit Party securing Indebtedness and other obligations of any Restricted Subsidiary that is not a Credit Party permitted to be incurred pursuant to Section 5.5(m).

5.2 Disposition of Assets. No Credit Party shall, and no Credit Party shall suffer or permit any of its Restricted Subsidiaries to, directly or indirectly, sell, assign, lease, convey, transfer or otherwise dispose of (whether in one or a series of transactions) any Property (including the Stock of any Restricted Subsidiary of any Credit Party, whether in a public or private offering or otherwise, and accounts and notes receivable, with or without recourse), except:

(a) dispositions or sales of accounts receivable in connection with a Qualified Factoring Facility;

(b) (x) dispositions of (i) Inventory, (ii) worn-out, obsolete or surplus property or (iii) property no longer used, useful or necessary in the conduct of the business of the Credit Parties or any Restricted Subsidiary, taken as a whole, all in the Ordinary Course of Business;

(c) dispositions not otherwise permitted hereunder which are made for fair market value and the mandatory prepayment in the amount of the Net Proceeds of such disposition is made if and to the extent required by Section 1.7; provided that (i) at the time of any disposition, no Event of Default shall exist or shall result from such disposition and (ii) to the extent the aggregate price therefor is in excess of $2,000,000 individually or $3,000,000 in the aggregate, not less than 75% of the aggregate sales price from such disposition shall be paid in cash (with assumed liabilities treated as cash and other Designated Noncash Consideration treated as cash so long as at the time of such disposition, total Designated Noncash Consideration outstanding does not exceed 1.50% of Consolidated Total Assets);

(d) dispositions of cash and Cash Equivalents;

(e) transactions permitted under Sections 5.3 or 5.4;

(f) licenses, sublicenses, leases or other subleases granted to third parties in the Ordinary Course of Business and not interfering in any material respect with the business of the Credit Parties or any of their Restricted Subsidiaries;

(g) transfers of assets (i) by any Credit Party or any Restricted Subsidiary of a Credit Party to any Credit Party (other than Holdings); (ii)[by any Credit Party to any Restricted Subsidiary of Holdings that is not a Credit Party, which, together (without duplication) with the aggregate amount of all Investments made pursuant to Section 5.4(b)(ii) and the amount of Permitted Acquisitions constituting Non-Credit Party Investments pursuant to the definition of Permitted Acquisition in reliance on Section 5.4(b)(ii), does not exceed $5,000,000 in net book

value in any Fiscal Year and $10,000,000 in net book value in the aggregate during the term of this Agreement];[3] and (iii) by any Restricted Subsidiary of Holdings that is not a Credit Party to any other Restricted Subsidiary of Holdings that is not a Credit Party;

(h) as long as no Event of Default has occurred and is continuing, the sale without recourse and consistent with industry practice of accounts receivable, not in excess of $1,000,000 in aggregate stated amount during any Fiscal Year, arising in the Ordinary Course of Business which are at least ninety (90) days past due;

(i) abandonment, dispositions or lapse of Intellectual Property no longer used or useful in the conduct of the business of any Borrower or any Restricted Subsidiary thereof or to the extent no longer material or economically desirable in the conduct of the business;

(j) write-offs or grants of discounts or forgiveness of Accounts, without recourse, which are at least ninety (90) days past due in connection with the compromise or collection thereof in the Ordinary Course of Business;

(k) dispositions constituting an Investment or Restricted Payment permitted under this Agreement or any Loan Document or a transaction permitted under Section 5.3;

(l) dispositions resulting from Events of Loss;

(m) dispositions or sales of a de minimis number of Stock of a Restricted Subsidiary in order to qualify members of the governing body of such Restricted Subsidiary pursuant to Requirements of Law;

(n) sale or disposition of assets in connection with any Sale-Leaseback permitted hereunder; provided that the mandatory prepayment in the amount of the Net Proceeds of such sale or disposition is made if and to the extent required by Section 1.7;

(o) Holdings may issue Qualified Capital Stock or, to the extent permitted to incur Indebtedness under Section 5.5, Disqualified Capital Stock, in each case to the extent such issuance would not result in an Event of Default under Section 7.1(k);

(p) other sales or dispositions in an amount not to exceed $5,000,000 in the aggregate; and

(q) sales or dispositions constituting Non-Core Asset Sales of assets acquired in connection with an Acquisition permitted hereunder (including any acquisition consummated prior to the Closing Date); provided that as of the time of such sale, the aggregate fair market value of all such assets so sold or disposed does not exceed 25% of the EBITDA attributable to such Acquisition permitted hereunder (or such other acquisition consummated prior to the Closing Date).

5.3 Consolidations and Mergers. No Credit Party shall, and no Credit Party shall suffer or permit any of its Restricted Subsidiaries to, merge, undergo a business combination or

[3] NTD: To be discussed.

consolidate with or into, dissolve, liquidate, or convey, transfer, lease or otherwise 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) to or in favor of any Person (a "fundamental transaction"), except:

(a) in connection with any merger, amalgamation, combination, consolidation, dissolution or liquidation in connection with a Permitted Acquisition consummated in accordance with the definition thereof or Other Investment Acquisition, any Credit Party (other than Holdings) or any Subsidiary of any Credit Party may merge with or into or consolidate with any other Person or permit any other Person to merge with or into or consolidate with it; provided that (i) the Lien on and security interest in such property granted or to be granted in favor of Agent under the Collateral Documents shall be maintained or created in accordance with the provisions of Section 4.12 and (ii) in the case of any merger or consolidation in connection with an Acquisition involving either Borrower, (x) the surviving person shall expressly assume the obligations of such Borrower under the Loan Documents pursuant to a supplement in form reasonably acceptable to Agent (including with respect to satisfaction of customary Patriot Act requirements), (y) each other Credit Party shall have confirmed its guarantee of such surviving Person's Obligations hereunder and the Liens that secure such guarantee and (z) the Borrower Representative shall have delivered to Agent an officer's certificate and an opinion of counsel, each stating that such merger or consolidation and such supplement to this Agreement or any Collateral Document preserves with respect to such Borrower the enforceability of this Agreement, the Guaranty and Security Agreement and the other Collateral Documents and the perfection of the Liens under the Collateral Documents (subject to customary assumptions, qualifications and exceptions); provided that, in the case of this clause (ii), (A) such merger or consolidation shall not result in such Borrower (or the successor to such Borrower as a result of such merger or consolidation) ceasing to be a domestic Wholly-Owned Subsidiary of Holdings and (B) the Organization Documents of the surviving person shall be substantially similar to those of such Borrower as in effect prior to such merger or consolidation with such changes as are not adverse in any material respect to the interests of the Lenders;

(b) any transaction permitted by Section 5.2 (including any fundamental transaction to facilitate any disposition of a Restricted Subsidiary permitted by Section 5.2) or Section 5.4;

(c) any Credit Party may merge or consolidate with or undergo a business combination or consolidate with and into (or dissolve or liquidate into or convey, transfer, lease or otherwise 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)) to or in any Borrower or any other Credit Party (as long as (x) (i) a Borrower is the surviving Person in the case of any such fundamental transaction involving either Borrower or (ii) the surviving Person in the case of any such fundamental transaction involving either Borrower shall expressly assume the obligations of such Borrower under the Loan Documents pursuant to a supplement in form reasonably acceptable to Agent (including with respect to satisfaction of customary Patriot Act requirements), (y) each other Credit Party shall have confirmed its Guarantee of such surviving Person's Obligations hereunder and the Liens that secure such Guarantee and (z) the Borrower Representative shall have delivered to Agent an officer's certificate and an opinion of counsel, each stating that such merger or consolidation and such supplement to this Agreement or any Collateral Document preserves with respect to such Borrower the enforceability of this Agreement, the Guaranty and Security

Agreement and the other Collateral Documents and the perfection of the Liens under the Collateral Documents (subject to customary assumptions, qualifications and exceptions)); provided that, (i) in the case of clause (x)(ii), (A) such fundamental transaction shall not result in such Borrower (or the successor to such Borrower as a result of such fundamental transaction) ceasing to be a domestic Wholly-Owned Subsidiary of Holdings and (B) the Organization Documents of the surviving Person shall be substantially similar to those of such Borrower as in effect prior to such fundamental transaction with such changes as are not adverse in any material respect to the interests of the Lenders, and (ii) in any other case a Credit Party (other than either Borrower) is the surviving Person and remains a Wholly-Owned Subsidiary of the relevant Borrower;

(d) any Restricted Subsidiary of Holdings that is not a Credit Party may merge or consolidate with or undergo a business combination or consolidate with and into (or dissolve or liquidate into or convey, transfer, lease or otherwise 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)) into any other Restricted Subsidiary that is not a Credit Party or into a Credit Party (or any Person that immediately thereafter, will be a Restricted Subsidiary or a Credit Party);

(e) any Foreign Subsidiary may merge or consolidate with or undergo a business combination or consolidate with and into (or dissolve or liquidate into or convey, transfer, lease or otherwise 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)) into another Foreign Subsidiary or Immaterial Subsidiary;

(f) any Immaterial Subsidiary may dissolve, liquidate or wind up its affairs at any time;

(g) in connection with a reorganization or other activity related to tax planning and, upon giving effect to such fundamental transaction, so long as, after giving effect thereto, the security interest of Agent in the Collateral, taken as a whole, is not impaired other than to a de minimis extent;

(h) to the extent determined by the applicable Board of Directors of such Credit Party or Restricted Subsidiary of a Credit Party to be in the best interests of such Credit Party or such Restricted Subsidiary, any Restricted Subsidiary of Holdings (other than Intermediate Holdings or a Borrower) may wind up its affairs at any time; provided that such winding up would not reasonably be expected to have a Material Adverse Effect and, in the case of a winding up of a Credit Party, all of such Credit Party's assets and business is transferred to a Credit Party (other than Holdings and Intermediate Holdings) and, in the case of a winding up of a Restricted Subsidiary that is not a Credit Party, all of such Restricted Subsidiary's assets and business is transferred to another Restricted Subsidiary;

(i) any Restricted Subsidiary may undertake an LLC Division, the purpose of which is to effect a Disposition permitted pursuant to Section 5.2; and

(j) any Restricted Subsidiary may consummate an LLC Division for which the assets and property of such Restricted Subsidiary are allocated or distributed to a newly formed Restricted Subsidiary (and, if such Restricted Subsidiary is a Guarantor, such newly formed

Restricted Subsidiary shall become an Additional Guarantor and otherwise comply with Section 4.12(d));

provided that none of the foregoing transactions shall be permitted to the extent that such transaction would reasonably be expected to have a Material Adverse Effect.

5.4 Loans and Investments. No Credit Party shall and no Credit Party shall suffer or permit any of its Restricted Subsidiaries to (i) purchase or acquire any Stock or Stock Equivalents, or any obligations or other securities of, or any interest in, any Person, including the establishment or creation of a Restricted Subsidiary, or (ii) make any Acquisitions, or any other acquisition of all or substantially all of the assets of another Person, or of any business or division of any Person, including without limitation, by way of merger, consolidation or other combination or (iii) make or purchase, or guarantee or provide other credit support for, any advance, loan, extension of credit or capital contribution to or any other investment in, any Person including a Credit Party, any Affiliate of a Credit Party or any Restricted Subsidiary of a Credit Party (the items described in clauses (i), (ii) and (iii) are referred to as "**Investments**"), except for:

(a) Investments in cash and Cash Equivalents;

(b) Investments by (i) Holdings, Intermediate Holdings, the Borrowers or any Restricted Subsidiary of Holdings in any Credit Party (other than Holdings, except to the extent permitted as a Restricted Payment pursuant to Section 5.7), (ii)[any Credit Party or Holdings in any Restricted Subsidiary of Holdings that is not a Credit Party, which, together (without duplication) with the aggregate amount of all dispositions made pursuant to Section 5.2(g)(ii) and the amount of Permitted Acquisitions constituting Non-Credit Party Investments pursuant to the definition of Permitted Acquisition in reliance on this Section 5.4(b)(ii), shall not exceed $5,000,000 in any Fiscal Year and $10,000,000 in the aggregate during the term of this Agreement; provided that if the Investments described in the foregoing clauses (i) and (ii) are evidenced by notes, such notes shall be pledged to Agent, for the benefit of the Secured Parties],[4] (iii) a non-Credit Party to another non-Credit Party and (iv) a non-Credit Party to a Credit Party; provided that, in the case of this clause (iv), to the extent such Investment constitutes Indebtedness owing from a Credit Party to a Restricted Subsidiary that is not a Credit Party, such Investment shall be evidenced by promissory notes having subordination terms reasonably satisfactory to Agent;

(c) (x) loans and advances to employees, officers and directors in the Ordinary Course of Business or (y) otherwise as long as such loans and advances do not exceed $1,000,000 in the aggregate at any time outstanding;

(d) Investments received as the non-cash portion of consideration received in connection with transactions permitted pursuant to Section 5.2;

(e) Investments acquired in connection with the settlement of delinquent Accounts in the Ordinary Course of Business or in connection with the bankruptcy or reorganization of suppliers or customers;

[4] NTD: To be discussed.

(f) Investments consisting of non-cash loans made by Holdings to officers, directors and employees of a Credit Party which are used by such Persons to purchase simultaneously Stock or Stock Equivalents of Topco;

(g) Investments existing on the Closing Date and set forth on Schedule 5.4;

(h) Permitted Acquisitions and Investments made pursuant to the establishment and initial capitalization of a Restricted Subsidiary for the purposes of a Permitted Acquisition or Other Investment Acquisition;

(i) to the extent constituting Investments, (x) earnest money deposits made in connection with the acquisitions of Property not prohibited hereunder and (y) deposits made in the Ordinary Course of Business securing Contractual Obligations of a Credit Party to the extent constituting a Permitted Lien;

(j) to the extent constituting Investments, (i) Contingent Obligations expressly permitted hereunder, (ii) Indebtedness expressly permitted under Sections 5.5(m), 5.5(o) or 5.5(p), and (iii) transactions expressly permitted under Section 5.3;

(k) Investments by Holdings or a Credit Party in a Restricted Subsidiary that is not a Credit Party that otherwise would be permitted to be made as a Restricted Payment pursuant to Section 5.7; provided that, except as otherwise provided in the Guaranty and Security Agreement, at the reasonable request of Agent, to the extent such Investment constitutes Indebtedness, such Investment shall be evidenced by promissory notes, the sole originally executed counterparts of which shall be pledged and delivered to Agent, for the benefit of the Secured Parties, as security for the Obligations; and provided, further, that such Investment shall be subject to all of the terms, conditions and restrictions applicable to such Restricted Payments as set forth in Section 5.7 (including, for the avoidance of doubt, a dollar-for-dollar reduction in the amount otherwise available for such Restricted Payments pursuant to Section 5.7 based on the amount of Investments made pursuant to this Section 5.4(k) (including, for the avoidance of doubt, the amount of Permitted Acquisitions constituting Non-Credit Party Investments pursuant to the definition of Permitted Acquisition in reliance on this Section 5.4(k)));

(l) Investments consisting of Rate Contracts otherwise permitted hereunder;

(m) to the extent constituting Investments, deposit and securities accounts maintained in the Ordinary Course of Business and in compliance with the provisions of the Loan Documents;

(n) as long as no Event of Default has occurred and is continuing, other Investments not to exceed (i) $30,000,000 as long as the Net Leverage Ratio calculated on a Pro Forma Basis as of the Applicable Date of Determination shall not exceed 3.50:1.00 minus (ii) the amount of Permitted Acquisitions constituting Non-Credit Party Investments pursuant to the definition of Permitted Acquisition in reliance on this Section 5.4(n) plus (iii) additional amounts as long as the Net Leverage Ratio calculated on a Pro Forma Basis as of the Applicable Date of Determination shall not exceed 2.00:1.00;

(o) Investments in joint ventures and other non-Wholly-Owned Subsidiaries up to the greater of at the time of such Investment (x) $3,500,000 and (y) 2.00% of Consolidated Total Assets at the Applicable Date of Determination;

(p) as long as no Event of Default has occurred and is continuing, other Investments in an aggregate amount not to exceed the Available Amount at the time made;

(q) other Investments in which the consideration is paid for with Qualified Capital Stock of Holdings (or Topco or any direct or indirect parent company) plus other Investments in a maximum aggregate amount not to exceed the Net Issuance Proceeds of any Equity Issuance by Holdings of Qualified Capital Stock to the extent such Net Issuance Proceeds are not used for any other purpose hereunder and solely to the extent such Net Issuance Proceeds are not added to, and do not result in an increase in, the Available Amount; and

(r) Investments consisting of re-organizations and other activities related to tax planning and re-organization, so long as, after giving effect thereto, the security interest of Agent in the Collateral, taken as a whole, is not impaired except to a de minimis extent.

In determining the amount of Investments permitted under this Section 5.4, the amount of any Investment not constituting Indebtedness outstanding at any time shall be the aggregate cash Investment by the applicable Person (or, in the case of an investment made with assets other than cash, the fair market value of such assets), less all dividends or other distributions on equity or returns of capital (but, in each case, only to the extent received in cash) received by such Person with respect to that particular Investment.

5.5 Limitation on Indebtedness. No Credit Party shall, and no Credit Party shall suffer or permit any of its Restricted Subsidiaries to, create, incur, assume, permit to exist, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

(a) Indebtedness incurred under the Working Capital Facility in an aggregate amount not to exceed at any time (i) $35,000,000 minus (ii) the aggregate amount of Indebtedness incurred pursuant to Section 5.5(b) and outstanding at any time.

(b) Indebtedness incurred under a Qualified Factoring Facility in an aggregate amount not to exceed $15,000,000 outstanding at any time;

(c) the Obligations;

(d) Indebtedness existing on the Closing Date and set forth in Schedule 5.5 including Permitted Refinancings thereof;

(e) Indebtedness not to exceed $3,500,000 plus additional amounts in connection with a Sale-Leaseback permitted under Section 5.13 in the aggregate at any time outstanding, consisting of Capital Lease Obligations or secured by Liens permitted by Section 5.1(j) and Permitted Refinancings thereof;

(f) unsecured intercompany Indebtedness permitted pursuant to Sections 5.4(b), 5.4(e), 5.4(h) (to the extent the applicable Investment is in a Credit Party or an entity that

will become a Credit Party upon consummation of the applicable Permitted Acquisition), 5.4(k), 5.4(n), 5.4(o) or 5.4(p);

(g) Indebtedness of Holdings incurred in connection with the redemption of Stock and Stock Equivalents consummated in accordance with Section 5.7(b); provided that the original principal amount of any such Indebtedness shall not exceed the amount of such Stock and Stock Equivalents so repurchased with such Indebtedness;

(h) Indebtedness consisting of financing of insurance premiums in the Ordinary Course of Business;

(i) Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation;

(j) Indebtedness of the type described in clause (h) of the definition thereof related to Stock or Stock Equivalents held by officers, directors and employees required to be purchased upon termination of employment to the extent that payment in respect of any such purchase obligation is either (i) expressly subordinated to, and conditioned upon compliance with Section 5.7(b) of this Agreement or otherwise is expressly not due or payable to the extent that payment thereof is not permitted under this Agreement or (ii) made or to be made solely from the proceeds of any insurance policy maintained by a Credit Party for such purpose;

(k) Indebtedness in respect of netting services, overdraft protection and similar arrangements in connection with deposit accounts in the Ordinary Course of Business;

(l) Indebtedness permitted pursuant to Section 5.4;

(m) Indebtedness of Foreign Subsidiaries of Holdings (or any Subsidiaries that are not Credit Parties pursuant to clause (a), (f) or (h) of the term "Excluded Subsidiary") that are not Credit Parties and which Indebtedness is not recourse to any Credit Party in an aggregate amount not to exceed $2,500,000 at any one time and any Permitted Refinancing thereof;

(n) Indebtedness of any person that becomes a Subsidiary after the Closing Date pursuant to a Permitted Acquisition or Other Investment Acquisition; provided that such Indebtedness exists at the time such Person becomes a Subsidiary and is not created in contemplation of or in connection with such Person becoming a Subsidiary;

(o) (i) Incremental Term Loans, Additional Term Notes and Unrestricted Additional Term Notes, and (ii) other senior unsecured or unsecured Subordinated Indebtedness of any Credit Party, in each case, so long as, after giving pro forma effect to such Indebtedness (and any substantially concurrent use of proceeds thereof), the Net Leverage Ratio, calculated on a Pro Forma Basis as of the Applicable Date of Determination, is not greater than 4.00:1.00; provided that (A) in the case of Incremental Term Loans, Additional Term Notes and Unrestricted Additional Term Notes, the terms of this Agreement with respect to the same shall have been complied with and (B) in the case of such other indebtedness, the terms of which (I) do not provide for any scheduled repayment, mandatory redemption or sinking fund obligation prior to the date that is ninety (90) days after the Latest Maturity Date (other than customary offers to purchase upon a change of control, asset sale or event of loss and customary acceleration rights after an

event of default) and (ii) to the extent the same are subordinated, provide for customary subordination to the Obligations under the Loan Documents and (II) the covenants, events of default, guarantees and other terms of which (other than interest rate and redemption provisions), taken as a whole, are not more restrictive to Holdings and its Subsidiaries than those herein (unless the Loan Documents are amended to contain such more restrictive terms or such more restrictive terms are only applicable after the Latest Maturity Date), and Permitted Refinancings thereof;

(p) other Indebtedness incurred by a Borrower or another Restricted Subsidiary of Holdings in an amount not to exceed the greater of (x) 2.50% of Consolidated Total Assets as of the date of incurrence and (y) $5,000,000;

(q) endorsements for collection or deposit (including endorsements of instruments or other payment items for deposit) in the Ordinary Course of Business;

(r) to the extent constituting Indebtedness, Contingent Obligations arising with respect to customary indemnification and adjustments of purchase price obligations in favor of (i) sellers in connection with Acquisitions permitted hereunder and (ii) purchasers in connection with dispositions permitted under Section 5.2(c);

(s) to the extent constituting Indebtedness, Contingent Obligations arising under guarantees made in the Ordinary Course of Business of obligations (i) of any Credit Party (other than Holdings), which obligations are otherwise permitted hereunder; provided that, if such obligation is subordinated to the Obligations, such guarantee shall be subordinated to the same extent or (ii) of suppliers, customers, landlords, franchisees and licensees of Holdings and its Restricted Subsidiaries;

(t) to the extent constituting Indebtedness, Contingent Obligations incurred in the Ordinary Course of Business with respect to surety and appeals bonds, performance bonds and other similar obligations; and

(u) to the extent constituting Indebtedness, Contingent Obligations consisting of guarantees by Holdings or any Restricted Subsidiary of Indebtedness incurred by Holdings or any Restricted Subsidiary; provided that, (A) the Indebtedness so guaranteed is otherwise permitted by this Section 5.5, (B) to the extent constituting a guarantee by any Credit Party of Indebtedness of a Subsidiary that is not a Credit Party, such guarantee is permitted by Section 5.4 (other than due to Section 5.4(j)(i)) and (C) any such guarantees shall be subordinated to the same extent and on the same terms as the Indebtedness so guaranteed is subordinated to the Obligations.

5.6 Transactions with Affiliates. No Credit Party shall, and no Credit Party shall suffer or permit any of its Restricted Subsidiaries to, enter into any transaction with any Affiliate of a Credit Party or of any such Restricted Subsidiary, except:

(a) as expressly permitted by this Agreement (including, but not limited to, Restricted Payments permitted under Section 5.7, Investments permitted under Section 5.4, Dispositions permitted under Section 5.2, Indebtedness permitted under Sections 5.5(f), (m), (o) and (p) (in each case, to the extent such Indebtedness is owing to an Affiliate of a Credit Party));

(b) upon fair and reasonable terms no less favorable to such Credit Party or such Restricted Subsidiary (or, in the case of a transaction between a Credit Party and a Restricted Subsidiary that is not a Credit Party, to such Credit Party) than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of a Credit Party or such Restricted Subsidiary;

(c) employment and severance arrangements between any Credit Party or their Restricted Subsidiaries and its management, officers and employees in the Ordinary Course of Business;

(d) transactions solely between or among the Credit Parties and Holdings not prohibited hereunder;

(e) transactions solely between or among non-Credit Parties not prohibited hereunder;

(f) as expressly set forth on Schedule 5.6;

(g) stock option plans approved by the board of directors of Holdings;

(h) sales of Qualified Capital Stock of Holdings (or Topco or any direct or indirect parent company) to Affiliates of the Borrowers or Holdings not otherwise prohibited by the Loan Documents and the granting of registration and other customary rights in connection therewith;

(i) royalty-free licenses of any of the Credit Parties' or their Restricted Subsidiaries' trademarks, trade names and business systems by the Credit Parties to Restricted Subsidiaries that are not Credit Parties;

(j) any transaction with an Affiliate where the only consideration paid by any Credit Party is Qualified Capital Stock of Holdings (or Topco or any direct or indirect parent company);

(k) payment of compensation to officers and employees for actual services rendered to the Credit Parties and their Subsidiaries in the Ordinary Course of Business; and

(l) (i) payment of directors' fees and reimbursement of actual out-of-pocket expenses incurred in connection with attending board of director meetings in the Ordinary Course and payment of customary indemnities to directors, officers and employees of Topco or its Restricted Subsidiaries, and (ii) consulting arrangements with directors and directors, officers and employees of Lenders or holders of Stock of Holdings or any of its Subsidiaries.

5.7 Restricted Payments. No Credit Party shall, and no Credit Party shall suffer or permit any of its Restricted Subsidiaries to, (i) declare or make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of such Credit Party's or Restricted Subsidiary's Stock or Stock Equivalent or (ii) purchase, redeem or otherwise acquire for value any of such Credit Party's or Restricted Subsidiary's Stock or Stock Equivalent now or hereafter outstanding (the items described in clauses (i) and (ii) above are referred to as

"**Restricted Payments**"); except that any Wholly-Owned Subsidiary of Holdings may declare and pay dividends to Holdings or any Wholly-Owned Subsidiary of Holdings (provided that any dividends from a Credit Party must be received by another Credit Party or Holdings), and except that:

(a) Holdings may declare and make dividend payments or other distributions payable solely in its Stock or Stock Equivalents;

(b) as long as no Event of Default has occurred and is continuing under Section 7.1(a), (f) or (g), dividends or other distributions payable to Holdings to permit Holdings (or Topco or any direct or indirect parent company), and the subsequent use of such payments by Holdings (or Topco or any direct or indirect parent company), to repurchase or redeem Stock of Holdings or Topco or any direct or indirect parent held by officers, directors (or comparable managers), employees or consultants or former officers, directors (or comparable managers), employees or consultants (or their transferees, spouses, ex-spouses, estates or beneficiaries under their estates) of any Credit Party upon their death, disability, retirement, severance or termination of employment or service; provided that the aggregate cash consideration paid for all such redemptions and payments shall not exceed, in any Fiscal Year, (i) $2,500,000 plus (ii) the net cash proceeds of any "key man" life insurance policies of Holdings, any Credit Party or Restricted Subsidiary that have not been used to make any repurchases, redemptions or payments under this clause (b); provided, further, that any dividends or payments permitted to be made (but not made) pursuant to clause (i) of this Section 5.7(b) in a given Fiscal Year of Holdings may be carried forward and made in the immediately succeeding Fiscal Year of Holdings; provided, further, that during an Event of Default under Sections 7.1(a), (f) or (g) any payments described in this clause may accrue and shall be permitted to be paid upon such Event of Default no longer existing as long as no other Event of Default under Sections 7.1(a), (f) or (g) has occurred and is continuing at such time;

(c) Each Credit Party and any other Restricted Subsidiary of Holdings that files consolidated, combined, unitary or similar type income tax returns with Topco (or any direct or indirect owners thereof) (together, "**Consolidated Return Entities**"), and each Credit Party and any other Restricted Subsidiary of Holdings that is disregarded for federal and state income tax purposes as an entity separate from Holdings, Intermediate Holdings or any Subsidiary thereof (together, "**Disregarded Entity**") may make direct or indirect distributions to Holdings, and Holdings may in turn make distributions to Topco (or any direct or indirect owner thereof), to permit Holdings or Topco (or any direct or indirect owner thereof) to pay federal and state income taxes then due and payable, franchise taxes and other similar licensing expenses incurred in Ordinary Course of Business; however, the amount of such distributions by any Consolidated Return Entity shall not be greater than the amount of such taxes or expenses that would have been due and payable by such Consolidated Return Entity if it had not filed a consolidated, combined, unitary or similar type income tax return with Topco (or any direct or indirect owner thereof); and the amount of such distributions by any Disregarded Entity shall not be greater than the amount of such taxes or expenses that would have been due and payable by such Disregarded Entity if it were taxed as a C corporation (and did not file consolidated, combined, unitary or similar type income tax returns with Holdings) (each such payment or distribution under this Section 5.7(c), a "**Tax Distribution**");

(d) as long as no Event of Default has occurred and is continuing, additional Restricted Payments may be made in an amount not to exceed the Available Amount as long as the Net Leverage Ratio calculated on a Pro Forma Basis as of the last day of the most recently ended four (4) Fiscal Quarter period for which financial statements are available or were required to be delivered hereunder shall not exceed 2.50:1.00;

(e) the Credit Parties and any other Restricted Subsidiary of Holdings may declare and make dividend payments or other distributions to Holdings which may be distributed by Holdings to Topco, which shall be immediately used by Holdings or Topco to permit Holdings or Topco to promptly pay actual, reasonable, out-of-pocket overhead and administrative expenses payable in the Ordinary Course of Business, in an aggregate amount not to exceed $[2,000,000] in any Fiscal Year;

(f) Holdings may repurchase shares of its Stock issued to employees, officers or directors of the Credit Parties, Holdings and their respective Restricted Subsidiaries by the cancellation of notes held pursuant to Section 5.4(f) in an amount not to exceed $500,000 in the aggregate;

(g) any Restricted Subsidiary of Holdings may declare and make dividend payments or other distributions in respect of its Stock ratably (or in such greater proportion more favorable to Holdings and the Credit Parties) to the owners of such Stock based on their proportionate ownership interest therein;

(h) other Restricted Payments in a maximum aggregate amount not to exceed the Net Issuance Proceeds of any substantially concurrent Equity Issuance by Holdings of Qualified Capital Stock to the extent such Net Issuance Proceeds are not used for any other purpose hereunder and solely to the extent such Net Issuance Proceeds are not added to, and do not result in an increase in, the Available Amount;

(i) non-cash repurchases of equity interests deemed to occur upon the exercise of stock options if the equity interests represent a portion of the exercise price thereof;

(j) any Restricted Payment made to Holdings (or any Topco) immediately prior to and for the purposes of consummating an Acquisition which, had such dividend been structured as an Investment by a Credit Party, such Investment would have been permitted hereunder, so long as immediately after giving effect to such Acquisition, the Stock or other assets so acquired are contributed to a Credit Party; and

(k) any Restricted Payments made in connection with, and in accordance with the terms of, the Plan of Reorganization.

5.8 Change in Business. No Credit Party shall, and no Credit Party shall permit any of its Restricted Subsidiaries to, engage in any material line of business substantially different from those lines of business carried on by it on the date hereof or corollary, complementary, reasonably related or ancillary thereto.

5.9 Changes in Accounting, Name and Jurisdiction of Organization. No Credit Party shall, and no Credit Party shall suffer or permit any of its Restricted Subsidiaries to, (i) make any

significant change in accounting treatment or reporting practices, except as required by GAAP, (ii) change the Fiscal Year or method for determining Fiscal Quarters of any Credit Party or of any consolidated Restricted Subsidiary of any Credit Party except with the prior written consent of Agent, (iii) change its name as it appears in official filings in its jurisdiction of organization, (iv) change its jurisdiction of organization, in the case of clauses (iii) and (iv), without at least ten (10) days' prior written notice to Agent (or such shorter period as Agent may agree in its sole discretion) and until all actions required by Agent to continue the perfection of its Liens, have been completed or (v) amend its organizational documents in a manner that is materially adverse to the interests of the Lenders.

5.10 Amendments to Certain Agreements. No Credit Party shall, and no Credit Party shall permit any of its Restricted Subsidiaries directly or indirectly to, change or amend the terms of (i) any Specified Subordinated Debt other than as permitted under the applicable subordination agreement or subordination arrangements applicable thereto, (ii) any Junior Debt if such Junior Debt could not be incurred on the terms after giving effect to such amendment or (iii) any certificate of incorporation, bylaws or other organizational documents (including by the filing or modification of any certificate of designation, or any agreement or arrangement (including any shareholders' agreement)), to the extent such change or amendment, could reasonably be expected to be adverse to the Lenders.

5.11 No Negative Pledges; Restrictive Agreements.

(a) No Credit Party shall, and no Credit Party shall permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual restriction or encumbrance of any kind on the ability of any Credit Party or Restricted Subsidiary to pay dividends or make any other distribution on any of such Credit Party's or Restricted Subsidiary's Stock or Stock Equivalents or to pay fees, including management fees, or make other payments and distributions to a Credit Party, other than (i) pursuant to applicable Requirements of Law; (ii) under this Agreement, the other Loan Documents, any documents governing Additional Term Notes, Unrestricted Additional Term Notes and Permitted Refinancings, and any other documents governing other Indebtedness permitted hereunder, and pursuant to any documents governing any Permitted Refinancing thereof (provided that such restrictions are not materially more restrictive with respect to such restrictions than those prior to such Permitted Refinancing); (iii) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of a Restricted Subsidiary or license or sublicense of a Restricted Subsidiary; (iv) customary provisions restricting assignment of any agreement entered into by a Restricted Subsidiary in the ordinary course of business; (v) any holder of a Lien permitted by Section 5.1 restricting the transfer of the property subject thereto; (vi) customary restrictions and conditions contained in any agreement relating to the sale of any property permitted under Section 5.2 pending the consummation of such sale; (vii) any agreement in effect at the time such Subsidiary becomes a Subsidiary of Holdings, so long as such agreement was not entered into in connection with or in contemplation of such person becoming a Restricted Subsidiary of Holdings and which encumbrance or restriction is not applicable to any person, or the properties or assets of any person, other than the person or the properties or assets of such Restricted Subsidiary; (viii) without affecting the Credit Parties' obligations under Section 4.12, customary provisions in partnership agreements, limited liability company organizational governance documents, asset sale and stock sale agreements and other similar agreements entered

into in the ordinary course of business that restrict the transfer of ownership interests in such partnership, limited liability company or similar person; (ix) restrictions on cash or other deposits or net worth imposed by suppliers or landlords under contracts entered into in the ordinary course of business; (x) any instrument governing Indebtedness assumed in connection with any Permitted Acquisition or Other Investment Acquisition or other Acquisitions consummated prior to the Closing Date, which encumbrance or restriction is not applicable to any person, or the properties or assets of any person, other than the person or the properties or assets of the person so acquired; or (xi) any encumbrances or restrictions imposed by any amendments or refinancings that are otherwise permitted by the Loan Documents of the contracts, instruments or obligations referred to in clauses (iii) or (viii) above.

(b) No Credit Party shall, and no Credit Party shall permit any of its Restricted Subsidiaries to, directly or indirectly, enter into, assume or become subject to any Contractual Obligation prohibiting or otherwise restricting the existence of any Lien upon any of its assets in favor of Agent, whether now owned or hereafter acquired except (i) to the extent otherwise permitted by this Agreement or the other Loan Documents or arising under this Agreement, the other Loan Documents, any documents governing any Indebtedness permitted to be incurred under Section 1.12 or under any Incremental Notes or any other documents governing Indebtedness permitted hereunder, and pursuant to any documents governing any Permitted Refinancing thereof (provided that such restrictions (A) are not materially more restrictive with respect to such restrictions than those prior to such Permitted Refinancing and (B) in any event permit the Liens securing the Obligations); (ii) covenants in documents creating Liens permitted by Section 5.1(k) prohibiting further Liens on the properties encumbered thereby; (iii) any other agreement that does not restrict in any manner (directly or indirectly) Liens created pursuant to the Loan Documents securing the Obligations and does not require the direct or indirect granting of any Lien securing any Indebtedness or other obligation by virtue of the granting of Liens on or pledge of property of any Credit Party to secure the Obligations; and (iv) any prohibition or limitation that (A) exists pursuant to applicable Requirements of Law, (B) consists of customary restrictions and conditions contained in any agreement relating to the sale of any property permitted under Section 5.2 pending the consummation of such sale, (C) restricts subletting or assignment of any lease governing a leasehold interest of a Restricted Subsidiary, (D) exists in any agreement in effect at the time such Restricted Subsidiary becomes a Subsidiary of Holdings, so long as such agreement was not entered into in contemplation of such person becoming a Subsidiary and which encumbrance or restriction is not applicable to any person, or the properties or assets of any person, other than the person or the properties or assets of such Restricted Subsidiary or (E) is imposed by any Permitted Refinancings that are otherwise permitted by the Loan Documents of the contracts, instruments or obligations referred to in clause (4)(d).

5.12 OFAC; Bank Secrecy Act, FCPA. No Credit Party shall, and no Credit Party shall permit any of its Restricted Subsidiaries to fail to comply in any material respect with the laws, regulations and executive orders referred to in Section 3.20 and Section 3.21.

5.13 Sale-Leasebacks. No Credit Party shall, and no Credit Party shall permit any of its Restricted Subsidiaries to, engage in a Sale-Leaseback, synthetic lease or similar transaction involving any of its assets, except that the Credit Parties (other than Holdings) may enter into Sale-Leaseback or similar transactions with respect to real property with an aggregate value not in excess of $2,500,000.

5.14 Prepayments of Other Indebtedness. No Credit Party shall, and no Credit Party shall permit any of its Restricted Subsidiaries to directly or indirectly make any voluntary or optional payment or prepayment on, or repurchase, redemption or acquisition for value of, or any prepayment or redemption as a result of any disposition, change of control or similar event of, any Indebtedness outstanding under (i) any Subordinated Indebtedness, (ii) any other unsecured Indebtedness or Indebtedness secured on a basis junior to the Loans incurred under Section 1.12 or Section 5.5(o) or (iii) any Permitted Refinancing with respect thereto, *except*:

(a) in connection with any Permitted Refinancing thereof and other payments in a maximum aggregate amount not to exceed the Net Issuance Proceeds of any substantially concurrent Equity Issuance by Holdings of Qualified Capital Stock to the extent such Net Issuance Proceeds are not used for any other purpose hereunder and solely to the extent such Net Issuance Proceeds are not added to, and do not result in an increase in, the Available Amount;

(b) prepaying, redeeming, purchasing, defeasing or otherwise satisfying prior to the scheduled maturity thereof (or set apart any property for such purpose) (i) in the case of any Restricted Subsidiary that is not a Credit Party, any Indebtedness owing by such Restricted Subsidiary that is not a Credit Party to any other Credit Party or Restricted Subsidiary that is not a Credit Party, (ii) otherwise, any Indebtedness owing to any Credit Party and (iii) as long as no Event of Default has occurred and is continuing or would immediately result therefrom, any mandatory prepayments of Indebtedness incurred under Sections 5.5(d) and 5.5(e) and any Permitted Refinancing thereof;

(c) making regularly scheduled or otherwise required repayments or redemptions of such Indebtedness to the extent permitted by the applicable subordination and intercreditor provisions with respect thereto;

(d) converting (or exchanging) any Indebtedness to (or for) Qualified Capital Stock of Holdings (or Topco or any direct or indirect parent company);

(e) any AHYDO catch-up payments with respect thereto;

(f) as long as no Event of Default has occurred and is continuing, making prepayments, redemptions, purchases, defeasance or other satisfaction of Indebtedness in an amount not to exceed $5,000,000 per year minus the aggregate amount of Restricted Payments made under Section 5.7;

(g) so long as no Event of Default is continuing or would result therefrom and, solely in the case of sub-clause (i), to the extent not prohibited by this Agreement, the intercreditor agreements or any other subordination terms applicable thereto (including pursuant to a Permitted Refinancing), the Credit Parties, Holdings and any other Restricted Subsidiary of Holdings may (i) make payments, with the Available Amount, and (ii) make any prepayments, redemptions, purchases, defeasances or other satisfactions of Indebtedness, in each case, provided that the Net Leverage Ratio calculated on a Pro Forma Basis as of the last day of the most recently ended four (4) Fiscal Quarter period for which financial statements are available or were required to be delivered hereunder shall not exceed 2.25:1.00; and

(h) any payments permitted under intercompany Indebtedness to the extent permitted by the subordination provisions (if any) respect thereto.

5.15 Use of Proceeds. No Credit Party shall, shall, and no Credit Party shall permit any of its Restricted Subsidiaries to, use any proceeds of the Loans for the purpose of purchasing or carrying Margin Stock for any purpose that violates the provisions of the regulations of the Federal Reserve Board.

ARTICLE VI

[RESERVED]

ARTICLE VII

EVENTS OF DEFAULT

7.1 Event of Default. Any of the following shall constitute an "**Event of Default**":

(a) Non-Payment. Any Credit Party fails (i) to pay when and as required to be paid herein, any amount of principal of any Loan, including after maturity of the Loans or (ii) to pay within three (3) Business Days after the same shall become due, interest on any Loan, any fee or any other amount payable hereunder or pursuant to any other Loan Document; or

(b) Representation or Warranty. Any representation, warranty or certification by or on behalf of any Credit Party or any of its Subsidiaries made or deemed made herein, in any other Loan Document, or which is contained in any certificate, document or financial or other statement by any such Person, or their respective Responsible Officers, furnished at any time under this Agreement, or in or under any other Loan Document, shall prove to have been incorrect in any material respect (without duplication of other materiality qualifiers contained therein) on or as of the date made or deemed made; or

(c) Specific Defaults. Any Credit Party fails to perform or observe any term, covenant or agreement contained in any of Section 4.3(a) or Article V; or

(d) Other Defaults. Any Credit Party or Subsidiary of any Credit Party fails to perform or observe any other term, covenant or agreement contained in this Agreement or any other Loan Document, and such default shall continue unremedied for a period of thirty (30) days after the earlier to occur of (i) the date upon which a Responsible Officer of any Credit Party becomes aware of such default and (ii) the date upon which written notice thereof is given to the Borrower Representative by Agent or Required Lenders; or

(e) Cross-Default. Any Credit Party or any Subsidiary of any Credit Party (i) fails to make any payment in respect of any Indebtedness (other than the Obligations) or Contingent Obligation having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement), in each case, of more than $5,000,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure continues after the applicable grace or notice period, if any, specified in the document relating thereto on the

date of such failure; or (ii) fails to perform or observe any other condition or covenant, or any other event shall occur or condition exist, under any agreement or instrument relating to any such Indebtedness or Contingent Obligation, if the effect of such failure, event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause such Indebtedness to be declared to be due and payable prior to its stated maturity (without regard to any subordination terms with respect thereto), or such Contingent Obligation to become payable or cash collateral in respect thereof to be demanded; or

(f) Insolvency; Voluntary Proceedings. (i) A Borrower, individually, ceases or fails, or the Credit Parties and their Subsidiaries on a consolidated basis, cease or fail, to be Solvent, or (ii) any Credit Party or any Subsidiary of any Credit Party other than an Immaterial Subsidiary: (w) generally fails to pay, or admits in writing its inability to pay, its debts as they become due, subject to applicable grace periods, if any, whether at stated maturity or otherwise; (x) voluntarily ceases to conduct its business in the ordinary course; (y) commences any Insolvency Proceeding with respect to itself; or (z) takes any action to effectuate or authorize any of the foregoing; or

(g) Involuntary Proceedings. (i) Any involuntary Insolvency Proceeding is commenced or filed against any Credit Party or any Subsidiary of any Credit Party other than an Immaterial Subsidiary, or any writ, judgment, warrant of attachment, execution or similar process, is issued or levied against a substantial part of any such Person's Properties, and any such proceeding or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or fully bonded within sixty (60) days after commencement, filing or levy; (ii) any Credit Party or any Subsidiary of any Credit Party other than an Immaterial Subsidiary admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (iii) any Credit Party or any Subsidiary of any Credit Party other than an Immaterial Subsidiary acquiesces in the appointment of a receiver, trustee, custodian, conservator, liquidator, mortgagee in possession (or agent therefor), or other similar Person for itself or a substantial portion of its Property or business; or

(h) Monetary Judgments. One or more judgments, non-interlocutory orders, decrees or arbitration awards shall be entered against any one or more of the Credit Parties or any of their respective Subsidiaries involving in the aggregate a liability of $[5,000,000] or more (excluding amounts (i) held in escrow for the benefit of any Credit Party or such applicable Subsidiary with a reasonable likelihood of reimbursement to such Credit Party or such applicable Subsidiary and (ii) covered by (x) insurance to the extent the relevant independent third-party insurer has not denied in writing (or indicated in writing it will deny) coverage therefor or (y) a binding indemnity obligation of a third-party that is financially capable of providing such coverage), and the same shall remain unsatisfied, unvacated or unstayed pending appeal for a period of thirty (30) days after the entry thereof; or

(i) ERISA Default. (i) An event shall have occurred that could result in the imposition of a Lien on any asset of a Credit Party or a Subsidiary of a Credit Party with respect to any Title IV Plan or Multiemployer Plan; (ii) an ERISA Event shall have occurred; (iii) a trustee shall be appointed by a United States district court to administer any Title IV Plan(s); (iv) the PBGC shall institute proceedings to terminate any Title IV Plan(s); or (v) any ERISA Affiliate

shall have been notified by the sponsor of a Title IV Plan that is a multiple employer plan or by the sponsor of a Multiemployer Plan that such ERISA Affiliate has incurred or will be assessed liability under Section 4063 or Section 4201 of ERISA (as applicable) and such entity does not have reasonable grounds for contesting such liability or is not contesting such liability in a timely and appropriate manner; and in each case in clauses (i) through (v) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to result in a Material Adverse Effect; or

(j) Collateral. (i) Any material provision of any Loan Document shall for any reason cease to be valid and binding on or enforceable against any Credit Party or any Subsidiary of any Credit Party thereto or any Credit Party or any Subsidiary of any Credit Party shall so state in writing or bring an action to limit its obligations or liabilities thereunder or (ii) any Collateral Document shall for any reason (other than pursuant to the terms thereof) cease to create a valid security interest in Collateral purported to be covered thereby with a value in excess of $5,000,000 or such security interest shall for any reason (other than the failure of Agent to take any action within its control) cease to be a perfected and first priority security interest subject only to Permitted Liens; or

(k) Ownership. Any Change of Control shall occur; or

(l) Changes in Passive Holding Company Status. Holdings or Intermediate Holdings shall (i) conduct, transact or otherwise engage in, or commit to conduct, transact or otherwise engage in, any business or operations other than those incidental to its ownership of the Stock of Intermediate Holdings (in the case of Holdings) and any Borrower (in the case of Intermediate Holdings), (ii) incur, create or assume any Indebtedness or other liabilities or financial obligations, except (w) Indebtedness incurred pursuant to Section 5.5(f), (g) or (j), (x) nonconsensual obligations imposed by operation of law, (y) obligations pursuant to the Loan Documents to which it is a party and (z) obligations with respect to its Stock, or (iii) own, lease, manage or otherwise operate any properties or assets (including cash (other than cash received in connection with dividends made by a Borrower in accordance with Section 5.7 pending application in the manner contemplated by said Section) and cash equivalents) other than the ownership of shares of Stock of Intermediate Holdings (in the case of Holdings) or a Borrower (in the case of Intermediate Holdings), as applicable.

7.2 Remedies. Upon the occurrence and during the continuance of any Event of Default, Agent may, and shall at the request of the Required Lenders:

(a) if applicable, declare all or any portion of the Commitment of each Lender to make Loans to be suspended or terminated, whereupon such Commitments shall forthwith be suspended or terminated;

(b) declare all or any portion of 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 each Credit Party; and/or

(c) 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;

provided, however, that upon the occurrence of any event specified in Sections 7.1(f) or 7.1(g) above (in the case of clause (i) of Section 7.1(g), upon the expiration of the sixty (60) day period mentioned therein), the obligation, if any, of each Lender to make Loans shall automatically terminate and the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable without further act of Agent or any Lender. Agent shall use reasonable efforts to provide the Borrower Representative with a written notice of such declaration promptly following the occurrence thereof.

7.3 Rights Not Exclusive. The rights provided for in this Agreement and the other Loan Documents are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising.

ARTICLE VIII

AGENT

8.1 Appointment and Authority.

(a) Each of the Lenders hereby irrevocably appoints Wilmington Savings Fund Society, FSB to act on its behalf as Agent hereunder and under the other Loan Documents and authorizes Agent to take such actions on its behalf and to exercise such powers as are delegated to Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of Agent and the Lenders, and the Borrowers shall not have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Requirement of Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders hereby irrevocably appoints and authorizes Agent to act as Agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Credit Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this capacity, Agent, as "collateral agent" and any co-agents, sub-agents and attorneys-in-fact appointed by Agent pursuant to Section 8.5 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 Agent, shall be entitled to the benefits of all provisions of this Article VIII and Article X, 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.

8.2 Rights as a Lender. The Person serving as Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrowers or any Subsidiary or other Affiliate thereof as if such Person were not Agent hereunder and without any duty to account therefor to the Lenders.

8.3 Exculpatory Provisions. Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrowers or any of their Affiliates that is communicated to or obtained by the Person serving as Agent or any of its Affiliates in any capacity;

(d) shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.1 and 7.2) or (ii) in the absence of its own gross negligence or willful misconduct, as determined by a court of competent jurisdiction by a final and nonappealable judgment. Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to Agent by a Borrower or a Lender; and

(e) shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness, or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or

document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article II or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to Agent.

8.4 Reliance by Agent. Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, Agent may presume that such condition is satisfactory to such Lender unless Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. Agent may consult with legal counsel (who may be counsel for the Borrowers), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

8.5 Delegation of Duties. Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by Agent. Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Persons. The exculpatory provisions of this Article VIII shall apply to any such sub-agent and to the Related Persons of Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

8.6 Resignation of Agent.

(a) Agent may at any time give notice of its resignation to the Lenders and the Borrowers. Upon receipt of any such notice of resignation, the Required Lenders shall have the right with, as long as no Event of Default under Sections 7.1(a), (f) or (g) has occurred and is continuing, the prior written consent of the Borrowers (such consent not to be unreasonably withheld, conditioned or delayed), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation, (or such earlier day as shall be agreed by the Required Lenders) (the "**Resignation Effective Date**"), then the retiring Agent may (but shall not be obligated to) on behalf of the Lenders, appoint a successor Agent (with, as long as no Event of Default under Sections 7.1(a), (f) or (g) has occurred and is continuing, the prior written consent of the Borrowers (such consent not to be unreasonably withheld, conditioned or delayed)) meeting the qualifications set forth above. Whether or not a

successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrowers and such Person remove such Person as Agent and, in consultation with the Borrowers, appoint a successor (with, as long as no Event of Default under Sections 7.1(a), (f) or (g) has occurred and is continuing, the prior written consent of the Borrowers (such consent not to be unreasonably withheld, conditioned or delayed)). If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days (or such earlier day as shall be agreed by the Required Lenders) (the "**Removal Effective Date**"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (ii) except for any indemnity payments or other amounts then owed to the retiring or removed Agent (including any amounts owed to the retiring or removed Agent in respect of its fees and expenses (including professional fees)), all payments, communications and determinations provided to be made by, to or through Agent shall instead be made by or to each Lender directly, until such time, if any, as the Required Lenders appoint a successor Agent as provided for above. Upon the acceptance of a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Agent (other than as provided in Section 9.19(c) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section 8.6). The fees payable by the Borrowers to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrowers and such successor. After the retiring or removed Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article VIII shall continue in effect for the benefit of such retiring or removed Agent, its sub-agents and their respective Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Agent was acting as Agent.

8.7 Non-Reliance on Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender or any of their Related Persons and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon Agent or any other Lender or any of their Related Persons and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

8.8 Agent May File Proofs of Claim; Credit Bidding. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Credit Party, 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 Agent shall have made any demand on the Borrowers) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim (but Agent shall have no obligation to file and prove such 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 (but Agent shall have no obligation to file such other documents) as may be necessary or advisable in order to have the claims of the Lenders and Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and Agent and their respective agents and counsel and all other amounts due the Lenders and Agent under Section 1.8, Section 9.4 and Section 9.5 allowed in such judicial proceeding); and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to Agent and, if Agent shall consent to the making of such payments directly to the Lenders, to pay to Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Agent and its agents and counsel, and any other amounts due to Agent under Section 1.8, Section 9.4 and Section 9.5.

Nothing contained herein shall be deemed to authorize 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 to authorize Agent to vote in respect of the claim of any Lender or in any such proceeding.

The Secured Parties hereby irrevocably authorize Agent (and Agent shall have the authority, but not the obligation, to so credit bid and purchase), 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 (x) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar Requirements of Law in any other jurisdictions to which a Credit Party is subject, (y) 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) Agent (whether by judicial action or otherwise) in accordance with any applicable Requirements of 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) 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 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 (i) through (viii) of Section 9.1(a) of this Agreement), (iii) 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.

8.9 Collateral and Guaranty Matters. Without limiting the provision of Section 8.8, the Lenders irrevocably authorize Agent, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by Agent under any Loan Document (i) upon termination of the Commitments, if any, and payment in full of all Obligations (other than contingent indemnification obligations), (ii) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted hereunder or under any other Loan Document to a Person that is not a Credit Party, (iii) that constitutes "**Excluded Property**" (as such term is defined in the Security Agreement), or (iv) if approved, authorized or ratified in writing in accordance with Section 9.1; and

(b) to release any Guarantor from its obligations under its guarantee of the Obligations if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents.

Upon request by Agent at any time, the Required Lenders will confirm in writing 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 its guarantee of the Obligations pursuant to this Section 8.9. In each case as specified in this Section 8.9, Agent will, at the Borrowers' sole expense, execute and deliver to the applicable Credit Party such documents as such Credit Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 8.9.

Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of Agent's Lien thereon, or any certificate prepared by any Credit Party in connection therewith, nor shall Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

8.10 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, Agent and its Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrowers, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of the Plan Asset Regulations) of one or more Employee 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 sub-sections (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 Agent, in its sole discretion, and such Lender.

(b) In addition, unless sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has provided another representation, warranty and covenant as provided in sub-clause (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, Agent and its Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrowers, that none of Agent or any of its Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by Agent under this Agreement, any other Loan Document or any documents related to hereto or thereto).

(c) Agent hereby inform the Lenders that each such Person is not undertaking to provide 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, this Agreement and any other Loan Documents, (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, arrangement fees, agency fees, Agent fees, amendment fees, processing fees, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

ARTICLE IX

MISCELLANEOUS

9.1 Amendments and Waivers.

(a) No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent with respect to any departure by any Credit Party therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by Agent with the consent of the Required Lenders) and the Borrowers and acknowledged by Agent (provided that such acknowledgement shall be administrative in nature and shall not be construed as a consent right) and then such waiver shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that only the consent of the Lenders directly and adversely affected thereby (or by Agent with the consent of all the Lenders directly and adversely affected thereby) and of the Borrowers and acknowledgement by Agent (provided that such acknowledgement shall be administrative in nature and shall not be construed as a consent right), shall be required to do any of the following:

(i) increase or extend the Commitment of such Lender (or reinstate any Commitment previously terminated);

(ii) postpone or delay any date fixed for, or reduce or waive, any scheduled installment of principal or any payment of interest (other than default interest), fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document (for the avoidance of doubt, mandatory prepayments pursuant to Section 1.7 (other than scheduled installments under Section 1.7(a)) may be postponed, delayed, reduced, waived or modified with the consent of Required Lenders);

(iii) reduce the principal of, or the rate of interest specified herein (it being agreed that waiver or reduction of the default interest margin shall only require the consent of Required Lenders) or the amount of interest payable in cash specified herein on any Loan, or of any fees or other amounts payable hereunder or under any other Loan Document;

(iv) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans which shall be required for the Lenders or any of them to take any action hereunder;

(v) amend this Section 9.1 or the definition of Required Lenders or any provision providing for consent or other action by all Lenders;

(vi) discharge any Credit Party from its respective payment Obligations under the Loan Documents (other than in connection with any release of any Credit Party pursuant to a transaction expressly permitted hereunder), or subordinate the Liens on or release all or substantially all of the Collateral, except as otherwise may be provided in this Agreement or the other Loan Documents;

(vii) amend any provision of this Agreement or any other Loan Document requiring pro rata treatment of the Secured Parties (with any Lender receiving a less than pro rata payment being "directly and adversely affected"); or

(viii) amend or modify Section 1.9(c).

it being agreed that all Lenders shall be deemed to be directly affected by an amendment or waiver of the type described in the preceding clauses (iv), (v) and (vi).

(b) No amendment, waiver or consent shall, unless in writing and signed by Agent, in addition to the Required Lenders or all Lenders directly affected thereby, as the case may be (or by Agent with the consent of the Required Lenders or all the Lenders directly affected thereby, as the case may be), affect the rights or duties of Agent under this Agreement or any other Loan Document.

(c) Notwithstanding anything to the contrary contained in this Section 9.1, (i) the Borrowers may amend Schedule 3.17 and Schedule 9.2 upon notice to Agent, (ii) Agent and the Borrowers may amend or modify this Agreement and any other Loan Document to grant a new Lien for the benefit of the Secured Parties, extend an existing Lien over additional property for the benefit of the Secured Parties or join additional Persons as Credit Parties, and (iii) the Borrowers may convert or exchange all or a portion of the Loans into Stock constituting common stock with the consent of the Lenders of the Loans to be so converted or exchanged; provided that the Borrowers shall offer each then-existing Lender the opportunity to participate on a pro rata basis in such proposed conversion or exchange.

(d) Notwithstanding anything to the contrary contained in this Section 9.1, the Borrowers, Agent and each Lender agreeing to make Incremental Term Loans may, in accordance with the provisions of Section 1.12, enter into an Incremental Facility Amendment without the consent of the Required Lenders; provided that after the execution and delivery by the Borrowers,

Agent and each such Lender of such Incremental Facility Amendment, such Incremental Facility Amendment may thereafter only be modified in accordance with the requirements of Sections 9.1(a) or 9.1(b), respectively.

(e) Notwithstanding anything to the contrary contained in this Section 9.1, (i) Collateral Documents and related documents executed by Credit Parties in connection with this Agreement may be in a form reasonably determined by Agent and may be amended, supplemented and waived with the consent of Agent, the collateral agent and the Borrowers without the need to obtain the consent of any other Person if such amendment, supplement or waiver is delivered in order (x) to comply with local Requirement of Law or advice of local counsel, (y) to cure ambiguities, omissions, mistakes or defects or (z) to cause such Collateral Document or other document to be consistent with this Agreement and the other Loan Documents and (ii) if following the Closing Date, Agent and any Credit Party shall have jointly identified an ambiguity, inconsistency, obvious error or any error or omission of a technical or immaterial nature, in each case, in any provision of the Loan Documents (other than the Collateral Documents), then Agent and the Credit Parties shall be permitted to amend such provision and such amendment shall become effective without any further action or consent of any other party to any Loan Documents if the same is not objected to in writing by the Required Lenders within five (5) Business Days following receipt of notice thereof.

9.2 Notices Addresses.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 9.2(b)), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or electronic mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to Holdings, the Borrowers or Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 9.2; and

(ii) if to any Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrowers).

(iii) Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in Section 9.2(b) below shall be effective as provided in Section 9.2(b).

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by Agent; provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified Agent that it is incapable of receiving notices under such Article by electronic communication. Agent or the Borrowers may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

Unless Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall Agent or any of its Related Persons (collectively, the "**Agent Parties**") have any liability to Holdings, the Borrowers, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Borrower's, any other Credit Party's or Agent's transmission of the Borrower Materials through the Internet.

(d) Change of Address, Etc. Each of Holdings, the Borrowers and Agent may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Borrowers and Agent. In addition, each Lender agrees to notify Agent from time to time to ensure that Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, certain Lenders (each, a "**Public Lender**") agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Public Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public

Lender's compliance procedures and applicable Requirements of Law, including United States Federal and state securities laws, to make reference to the Borrower Materials that are not made available through the "Private Side Information" or similar designation portion of the Platform and that may contain material non-public information with respect to any Borrower or its securities for purposes of United States Federal or state securities laws.

(e) Reliance by Agent and the Lenders. Agent and the Lenders shall be entitled to rely and act upon any notices purportedly given by or on behalf of any Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrowers shall indemnify Agent, each Lender and the Related Persons of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of any Borrower. All telephonic notices to and other telephonic communications with Agent may be recorded by Agent, and each of the parties hereto hereby consents to such recording.

9.3 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of Agent or any Lender, any right, remedy, power or privilege hereunder, 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. No course of dealing between any Credit Party, any Affiliate of any Credit Party, Agent or any Lender shall be effective to amend, modify or discharge any provision of this Agreement or any of the other Loan Documents.

9.4 Costs and Expenses. Any action taken by any Credit Party under or with respect to any Loan Document, even if required under any Loan Document or at the request of Agent or Required Lenders, shall be at the expense of such Credit Party, and neither Agent nor any other Secured Party shall be required under any Loan Document to reimburse any Credit Party or any Subsidiary of any Credit Party therefor except as expressly provided therein. In addition, the Borrowers agree to pay or reimburse within five (5) Business Days after upon demand (a) Agent for all reasonable and documented out-of-pocket costs and expenses incurred by it or any of its Related Persons, in connection with the investigation, development, preparation, negotiation, syndication, execution, or administration of, any modification of any term of or termination of, any Loan Document, any commitment or proposal letter therefor, any other document prepared in connection therewith or the consummation and administration of any transaction contemplated therein, in each case including Attorney Costs of Agent, the cost of environmental audits to the extent Agent reasonably determines such environmental audits are necessary to evaluate a potential Event of Default, Collateral audits and appraisals, background checks and similar expenses, to the extent permitted hereunder, (b) subject to Section 4.10, Agent for all reasonable costs and expenses incurred by it or any of its Related Persons in connection with internal audit reviews, field examinations and Collateral examinations (which shall be reimbursed, in addition to the reasonable and documented out-of-pocket costs and expenses of such examiners, at the per diem rate per individual charged by Agent for its examiners), (c) each of Agent and its Related Persons for all costs and expenses incurred in connection with (i) any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out", (ii) the enforcement or preservation of any right or remedy under any Loan Document, any Obligation, with respect to the Collateral or any other related right or remedy or (iii) the commencement, defense, conduct of,

intervention in, or the taking of any other action with respect to, any proceeding (including any bankruptcy or insolvency proceeding) related to any Credit Party, any Subsidiary of any Credit Party, Loan Document or Obligation (or the response to and preparation for any subpoena or request for document production relating thereto), including Attorney Costs and (d) each Lender for all costs and expenses incurred in connection with the enforcement or preservation of any right or remedy under any Loan Document, any Obligation, with respect to the Collateral or any other related right or remedy; provided that reimbursement for Attorney Costs shall be limited to the reasonable and documented fees, disbursements and other charges of one law firm on behalf of Agent and the Lenders (if applicable), in the aggregate; provided, however, in connection with any of the matters referred to in clauses (c)(ii), (c)(iii) or (d), such Attorney Costs shall be limited to the reasonable and documented fees, disbursements and other charges of one law firm on behalf of Agent and one law firm on behalf of all Lenders, in the aggregate, (but including a single local counsel for Agent and a single local counsel to the Lenders, in the aggregate, in each relevant jurisdiction and in the case of an actual or perceived conflict of interest, additional conflicts counsel to each group of persons similarly situated subject to such conflict).

9.5 Indemnity.

(a) Each Credit Party agrees to indemnify, hold harmless and defend Agent, each Lender and each of their respective Related Persons (each such Person being an "**Indemnitee**") from and against all actual Liabilities (including brokerage commissions, fees and other compensation, but excluding taxes and related interest, fees, costs and penalties covered by Section 10.1 hereof, other than any taxes that represent Liabilities arising from any non-tax claim) that may be imposed on, incurred by or asserted against any such Indemnitee in any matter relating to or arising out of, in connection with or as a result of (i) any Loan Document, any Obligation (or the repayment thereof), the use or intended use of the proceeds of any Loan or any securities filing of, or with respect to, any Credit Party, (ii) any commitment letter, proposal letter or term sheet with any Person or any Contractual Obligation, arrangement or understanding with any broker, finder or consultant, in each case entered into by or on behalf of any Target, any Credit Party or any Affiliate of any of them in connection with any of the foregoing and any Contractual Obligation entered into in connection with any Platform, (iii) any actual or prospective investigation, litigation or other proceeding, whether or not brought by any such Indemnitee or any of its Related Persons, any holders of securities or creditors, whether or not any such Indemnitee, Related Person, holder or creditor is a party thereto, and whether or not based on any securities or commercial law or regulation or any other Requirement of Law or theory thereof, including common law, equity, contract, tort or otherwise or (iv) any other act, event or transaction related, contemplated in or attendant to any of the foregoing (including reasonable and documented attorneys' fees, disbursements and other charges (other than in-house attorney's fees) of (x) one law firm on behalf of Agent and all Lenders, taken as a whole, and one additional local law firm on behalf of Agent and all Lenders, taken as a whole, in each relevant jurisdiction and (y) if there is a conflict of interest with respect to Agent or a particular Lender, an additional law firm for all such Persons similarly situated, taken as a whole), in each case, incurred in connection with any of the matters referred to in clauses (i) through (iv) above, (collectively, the "**Indemnified Matters**"); provided, however, that no Credit Party shall have any liability under this Section 9.5 to any Indemnitee with respect to any Indemnified Matter, to the extent such liability has resulted (A) from the gross negligence, bad faith or willful misconduct of such Indemnitee, as determined by a court of competent jurisdiction in a final non-appealable judgment or order, (B) from disputes

among affiliated Indemnitees that do not involve and act or omission of any Credit Party or its Subsidiaries and that is brought by an Indemnitee against any other Indemnitee that is a Related Person to the Indemnitee making such claim, litigation, investigation or proceeding or (C) from a material breach by such Indemnitee or any of its Related Indemnified Persons of its obligations under the Loan Documents, as determined by a court of competent jurisdiction in a final non-appealable judgment or order. Furthermore, each of each Borrower and each other Credit Party executing this Agreement waives and agrees not to assert against any Indemnitee, and shall cause each other Credit Party to waive and not assert against any Indemnitee, any right of contribution or other rights of recovery with respect to all claims, demands, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature, under or related to Environmental Laws that it now or hereafter may have by statute or otherwise against any Indemnitee, except and to the extent such right of contribution has resulted from the bad faith, gross negligence or willful misconduct of such Indemnitee as determined by a court of competent jurisdiction in a final non-appealable judgment or order.

(b) To the fullest extent permitted by applicable Requirements of Law, no party hereto shall assert, and each party hereby waives, any claim against any other party on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof; provided that this sentence shall not limit the Credit Parties' indemnification obligations hereunder as set forth in Section 9.5(a) to the extent that any such damages are asserted by or awarded to any third party (other than another Indemnitee) against an Indemnitee. No party hereto shall be liable for any damages (other than those damages resulting from bad faith, gross negligence or willful misconduct of such person or its Related Persons as determined by a court of competent jurisdiction by final and nonappealable judgment) arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(c) Without limiting the foregoing, "Indemnified Matters" includes all Environmental Liabilities, including those arising from, or otherwise involving, any Real Estate of any Credit Party or any Related Person of any Credit Party or any damage to Real Estate or natural resources or harm or injury alleged to have resulted from the presence of Hazardous Materials at such Real Estate or any Release of Hazardous Materials on, upon or into such Real Estate or natural resource or any real property on or contiguous to any Real Estate of any Credit Party or any Related Person of any Credit Party, whether or not, with respect to any such Environmental Liabilities, any Indemnitee is a mortgagee pursuant to any leasehold mortgage, a mortgagee in possession, the successor-in-interest to any Credit Party or any Related Person of any Credit Party or the owner, lessee or operator of any Real Estate of any Related Person through any foreclosure action, in each case except and to the extent such Environmental Liabilities resulted from the gross negligence, willful misconduct or bad faith of any Indemnitee.

(d) To the extent that the Borrowers for any reason fail to indefeasibly pay any amount required under Section 9.4 or this Section 9.5 to be paid by them to Agent (or any sub-agent thereof) or any Related Person of any of the foregoing, each Lender severally agrees to pay

to Agent (or any such sub-agent) or such Related Person, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the total credit exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought); provided, further, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against Agent (or any such subagent) in its capacity as such, or against any Related Person of any of the foregoing acting for Agent (or any such sub-agent) in connection with such capacity.

9.6 Marshaling; Payments Set Aside. No Secured Party shall be under any obligation to marshal any property in favor of any Credit Party or any other Person or against or in payment of any Obligation. To the extent that any Secured Party receives a payment from a Borrower, from any other Credit Party, from the proceeds of the Collateral, from the exercise of its rights of setoff, any enforcement action or otherwise, and such payment is subsequently, in whole or in part, invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not occurred.

9.7 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that any assignment by any Lender shall be subject to the provisions of Section 9.8; and provided, further, that no Borrower may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of Agent and each Lender.

9.8 Assignments and Participations; Binding Effect.

(a) Binding Effect. This Agreement shall become effective when it shall have been executed by Holdings, Intermediate Holdings, the Borrowers, the other Credit Parties signatory hereto and Agent and when Agent shall have been notified by each Lender that such Lender has executed it. Thereafter, it shall be binding upon and inure to the benefit of, but only to the benefit of, Holdings, Intermediate Holdings, the Borrowers, the other Credit Parties hereto (in each case except for Article VIII), Agent and each Lender receiving the benefits of the Loan Documents and, in each case, their respective successors and permitted assigns. Except as expressly provided in any Loan Document (including in Section 8.6), none of Holdings, Intermediate Holdings, any Borrower, any other Credit Party or Agent shall have the right to assign any rights or obligations hereunder or any interest herein.

(b) Successors and Assigns Generally. 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 neither the Borrowers nor any other Credit Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of Section 9.8(c), (ii) by way of participation in accordance with the provisions of Section 9.8(e), or (iii) by way of

pledge or assignment of a security interest (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 9.8(e) and, to the extent expressly contemplated hereby, the Related Persons of each of Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(c) Assignments by Lenders. Any Lender may at any time assign to one or more Persons permitted under this Section 9.8 all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment(s) and the Loans at the time owing to it); provided that (in each case with respect to any Facility) any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and/or the Loans at the time owing to it (in each case with respect to any Facility) or contemporaneous assignments to related Approved Funds that equal at least the amount specified in Section 9.8(c)(i)(B) in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in Section 9.8(c)(i)(A), the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the 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 Agent or, if "**Trade Date**" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $1,000,000 unless each of Agent and, as long as no Event of Default has occurred and is continuing, the Borrowers otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by Section 9.8(c)(i)(B) and, in addition:

(A) the consent of the Borrower Representative (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default under Sections 7.1(a), (f) or (g) has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower Representative shall be deemed to have consented to any such assignment unless it shall object thereto by

written notice to Agent within ten (10) Business Days after having received notice thereof; and

(B) the consent of Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; provided, however, that Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to any Borrower or any of such Borrower's Affiliates or Subsidiaries, except as provided in Section 9.8(g), (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), (C) to a natural Person or (D) to a Direct Competitor or Disqualified Lender. Subject to the confidentiality provisions contained herein, the list of Direct Competitors and Disqualified Lenders shall be available to any Lender for review upon request. Agent shall have no responsibility or liability for monitoring or enforcing the list of Direct Competitors or Disqualified Lenders or for any assignment or participation to a Direct Competitor or Disqualified Lender.

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire its full pro rata share of all Loans. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Requirement of Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

(vii) Subject to acceptance and recording thereof by Agent pursuant to this Section 9.8(c), from and after the effective date specified in each Assignment and Assumption, the 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 Section 9.4, Section 9.5, Section 10.1, Section 10.3 and Section 10.4 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, the Borrowers (at their sole 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 subsection 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 9.8(e); provided that any transfer to a Direct Competitor or Disqualified Lender shall be void pursuant to Section 9.8(i).

(d) Register. Agent, acting solely for this purpose as an agent of the Borrowers (and such agency being solely for tax purposes), shall maintain at Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and the Register. The entries in the Register shall be conclusive absent manifest error, and the Borrowers, Agent 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. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(e) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrowers or Agent, sell participations to any Person (other than a natural Person, a Defaulting Lender, a Direct Competitor, a Disqualified Lender or the Borrowers or any of the Borrowers' Affiliates or Subsidiaries) (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, Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 9.5(d) without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; 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 9.1 that affects such Participant. The Borrowers agree that each Participant shall be entitled to the benefits of Section 10.1, Section 10.2 and Section 10.3 (subject to the requirements and limitations therein) (it being understood that the documentation required under Section 10.1 shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 9.8(b); provided that such Participant (A) agrees to be subject to the provisions of Section 1.10 and Section 9.1(b) as if it were an assignee under Section 9.8(b) and (B) shall not be entitled to receive any greater payment under Section 10.1, Section 10.2 or Section 10.3, with respect to any participation, than the Lender from whom it acquired the

applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrowers' request and expense, to use reasonable efforts to cooperate with the Borrowers to effectuate the provisions of Article X with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.10(a) as though it were a Lender; provided that such Participant agrees to be subject to Section 9.10(b) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "**Participant Register**"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (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) to any Person 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 manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(f) Certain Pledges. 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; 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.

(g) 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 or any of its Subsidiaries or Debt Fund Affiliates and (y) Holdings, any of its Subsidiaries, Debt Fund Affiliates and any Affiliate Lender may, from time to time, purchase or prepay, as applicable, Term Loans, in each case through open-market purchases or through Dutch auction procedures open to all applicable Lenders on a pro rata basis in accordance with customary procedures to be agreed between the Borrower Representative and Agent (or other applicable agent managing such auction); provided that:

(i) any Term Loans acquired by Holdings or any of its Subsidiaries shall be retired and cancelled promptly upon the acquisition thereof (and any gain from such purchase and/or cancellation shall not be included in the calculation of EBITDA); and

(ii) in the case of any assignment of Term Loans to Holdings or any of its Subsidiaries, no Default or Event of Default shall have occurred and be continuing or would result therefrom.

(h) Notwithstanding anything in Section 9.1 or the definition of "Required Lenders" to the contrary, for purposes of determining whether the Required Lenders have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Credit Party therefrom, (ii) otherwise acted on any matter related to any Loan Document, or (iii) directed or required Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, in each case, all Term Loans held by Debt Fund Affiliates may not account for more than 49.9% of the of the amounts includable in determining whether the "Required Lenders" or a majority of Lenders with respect to such Class have consented to any amendment, modification, waiver, consent or other action pursuant to Section 9.1.

(i) Disqualified Institutions and Direct Competitors. Notwithstanding anything herein to the contrary, any purported assignment or participation to a Disqualified Lender or Direct Competitor shall be void for so long as such Loan or Commitment is purported to be held by such Person (but not if sold on to a third Person).

9.9 Non-Public Information; Confidentiality.

(a) Non-Public Information. Agent and each Lender acknowledges and agrees that it may receive material non-public information hereunder concerning the Credit Parties and their Affiliates and agrees to use such information in compliance with all relevant policies, procedures and applicable Requirements of Laws (including United States federal and state securities laws and regulations).

(b) Confidential Information. Each Lender and Agent agrees to use all reasonable efforts to maintain, in accordance with its customary practices, the confidentiality of information obtained by it pursuant to any Loan Document for a period of two (2) years following the date on which this Agreement terminates in accordance with the terms hereof, except that such information may be disclosed (i) with the Borrower Representative's consent, (ii) to Related Persons of such Lender or Agent, as the case may be, that are advised of the confidential nature of such information and are instructed to keep such information confidential in accordance with the terms hereof (provided that such Lender or Agent shall be responsible for its Related Person's compliance with this Section 9.9(b)), (iii) to the extent such information presently is or hereafter becomes (A) publicly available other than as a result of a breach of this Section 9.9 or (B) available to such Lender or Agent or any of their Related Persons, as the case may be, on a non-confidential basis, from a source (other than any Credit Party) not known by them to be subject to disclosure restrictions or other obligations of confidentiality, (iv) to the extent disclosure is required by applicable Requirements of Law or other legal process or requested or demanded by any Governmental Authority, (v) to the extent necessary or customary for inclusion in league table measurements, (vi)(A) to the National Association of Insurance Commissioners or any similar organization, any examiner or any nationally recognized rating agency or (B) otherwise to the extent consisting of general portfolio information that does not identify Credit Parties, (vii) to current or prospective assignees, SPVs (including the investors or prospective investors therein) or participants, direct or contractual counterparties to any Rate Contracts and to their respective Related Persons, in each case to the extent such assignees, investors, participants, counterparties or Related Persons agree to be bound by provisions substantially similar to the provisions of this Section 9.9 (and such Person may disclose information to their respective Related Persons in

accordance with clause (ii) above), (viii) in connection with the exercise or enforcement of any right or remedy under any Loan Document, (ix) in connection with any litigation or other proceeding to which such Lender or Agent or any of their Related Persons is a party or bound; provided that, in the case of this clause (ix) such Lender or Agent shall promptly notify the Borrower Representative to the extent permitted by applicable law, and (x) to the extent necessary to respond to public statements or disclosures by Credit Parties or their Related Persons referring to a Lender or Agent or any of their Related Persons.

In the event of any conflict between the terms of this Section 9.9 and those of any other Contractual Obligation entered into with any Credit Party (whether or not a Loan Document), the terms of this Section 9.9 shall govern.

(c) Distribution of Materials to Lenders. The Credit Parties acknowledge and agree that the Loan Documents and all reports, notices, communications and other information or materials provided or delivered by, or on behalf of, the Credit Parties hereunder (collectively, the "**Borrower Materials**") may be disseminated by, or on behalf of, Agent, and made available, to the Lenders by posting such Borrower Materials on an E-System. The Credit Parties authorize Agent to download copies of their logos from its website and post copies thereof on an E-System.

9.10 Set-off; Sharing of Payments.

(a) Right of Setoff. Each of Agent, each Lender and each Affiliate (including each branch office thereof) of any of them is hereby authorized, without notice or demand (each of which is hereby waived by each Credit Party), at any time and from time to time during the continuance of any Event of Default and to the fullest extent permitted by applicable Requirements of Law, to set off and apply any and all deposits (whether general or special, time or demand, provisional or final, but excluding payroll, employee benefits, tax withholding and fiduciary accounts) at any time held and other Indebtedness, claims or other obligations at any time owing by Agent, such Lender or any of their respective Affiliates to or for the credit or the account of the Borrowers or any other Credit Party against any Obligation of any Credit Party now or hereafter existing, whether or not any demand was made under any Loan Document with respect to such Obligation and even though such Obligation may be unmatured. No Lender shall exercise any such right of setoff without the prior consent of Agent or Required Lenders. Each of Agent and each Lender agrees promptly to notify the Borrower Representative and Agent after any such setoff and application made by such Lender or its Affiliates; provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights under this Section 9.10 are in addition to any other rights and remedies (including other rights of setoff) that Agent, the Lenders, their Affiliates and the other Secured Parties, may have.

(b) Sharing of Payments, Etc. If any Lender, directly or through an Affiliate or branch office thereof, obtains any payment of any Obligation of any Credit Party (whether voluntary, involuntary or through the exercise of any right of setoff or the receipt of any Collateral or "proceeds" (as defined under the applicable UCC) of Collateral) other than pursuant to Section 9.8 or Article X and such payment exceeds the amount such Lender would have been entitled to receive if all payments had gone to, and been distributed by, Agent in accordance with the provisions of the Loan Documents, such Lender shall purchase for cash from other Lenders such participations in their Obligations as necessary for such Lender to share such excess payment with

such Lenders to ensure such payment is applied as though it had been received by Agent and applied in accordance with this Agreement (or, if such application would then be at the discretion of the Borrowers, applied to repay the Obligations in accordance herewith); provided, however, that (i) if such payment is rescinded or otherwise recovered from such Lender in whole or in part, such purchase shall be rescinded and the purchase price therefor shall be returned to such Lender without interest and (ii) such Lender shall, to the fullest extent permitted by applicable Requirements of Law, be able to exercise all its rights of payment (including the right of setoff) with respect to such participation as fully as if such Lender were the direct creditor of the applicable Credit Party in the amount of such participation.

9.11 Counterparts; Facsimile Signature. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. Delivery of an executed signature page of this Agreement by facsimile transmission or other electronic transmission shall be as effective as delivery of a manually executed counterpart hereof.

9.12 Severability. The illegality or unenforceability of any provision of this Agreement or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder.

9.13 Captions. The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

9.14 Independence of Provisions. The parties hereto acknowledge that this Agreement and the other Loan Documents may use several different limitations, tests or measurements to regulate the same or similar matters, and that such limitations, tests and measurements are cumulative and must each be performed, except as expressly stated to the contrary in this Agreement.

9.15 Interpretation. This Agreement is the result of negotiations among and has been reviewed by counsel to Credit Parties, Agent, each Lender and other parties hereto, and is the product of all parties hereto. Accordingly, this Agreement and the other Loan Documents shall not be construed against the Lenders or Agent merely because of Agent's or Lenders' involvement in the preparation of such documents and agreements. Without limiting the generality of the foregoing, each of the parties hereto has had the advice of counsel with respect to Sections 9.17 and 9.18.

9.16 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and legal benefit of the Borrowers, the Lenders, Agent and each other Secured Party, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents. Neither Agent nor any Lender shall have any obligation to any Person not a party to this Agreement or the other Loan Documents.

9.17 Governing Law and Jurisdiction.

(a) Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Agreement, including, without limitation, its validity, interpretation, construction, performance and enforcement.

(b) Submission to Jurisdiction. Any legal action or proceeding with respect to any Loan Document shall be brought exclusively in the courts of the State of New York located in New York County, New York or the courts of the United States for the Southern District of New York and, by execution and delivery of this Agreement, each Borrower and each other Credit Party executing this Agreement hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. The parties hereto (and, to the extent set forth in any other Loan Document, each other Credit Party) hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum non conveniens, that any of them may now or hereafter have to the bringing of any such action or proceeding in such jurisdictions.

(c) Service of Process. Each Credit Party hereby irrevocably waives personal service of any and all legal process, summons, notices and other documents and other service of process of any kind and consents to such service in any suit, action or proceeding brought in the United States of America with respect to or otherwise arising out of or in connection with any Loan Document by any means permitted by applicable Requirements of Law, including by the mailing thereof (by registered or certified mail, postage prepaid) to the address of the Borrowers specified herein (and shall be effective when such mailing shall be effective, as provided therein). Each Credit Party agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(d) Non-Exclusive Jurisdiction. Nothing contained in this Section 9.17 shall affect the right of Agent or any Lender to serve process in any other manner permitted by applicable Requirements of Law or commence legal proceedings or otherwise proceed against any Credit Party in any other jurisdiction.

9.18 Waiver of Jury Trial. THE PARTIES HERETO, TO THE EXTENT PERMITTED BY LAW, WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, IN CONNECTION WITH OR RELATING TO, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ANY OTHER TRANSACTION CONTEMPLATED HEREBY AND THEREBY. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE.

9.19 Entire Agreement; Release; Survival.

(a) THE LOAN DOCUMENTS EMBODY THE ENTIRE AGREEMENT OF THE PARTIES AND SUPERSEDE ALL PRIOR AGREEMENTS AND UNDERSTANDINGS RELATING TO THE SUBJECT MATTER THEREOF AND ANY PRIOR INDICATION OF INTEREST, LETTER OF CONFIDENTIALITY AND SIMILAR AGREEMENTS INVOLVING ANY CREDIT PARTY AND ANY LENDER OR ANY OF THEIR RESPECTIVE AFFILIATES

RELATING TO A FINANCING OF SUBSTANTIALLY SIMILAR FORM, PURPOSE OR EFFECT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS AGREEMENT AND ANY OTHER LOAN DOCUMENT, THE TERMS OF THIS AGREEMENT SHALL GOVERN (UNLESS SUCH TERMS OF SUCH OTHER LOAN DOCUMENTS ARE NECESSARY TO COMPLY WITH APPLICABLE REQUIREMENTS OF LAW, IN WHICH CASE SUCH TERMS SHALL GOVERN TO THE EXTENT NECESSARY TO COMPLY THEREWITH).

(b) Execution of this Agreement by the Credit Parties constitutes a full, complete and irrevocable release of any and all claims which each Credit Party may have at law or in equity in respect of all prior discussions and understandings, oral or written, relating to the subject matter of this Agreement and the other Loan Documents.

(c) (i) Any indemnification or other protection provided to any Indemnitee pursuant to this Section 9.19, Section 9.4 (Costs and Expenses), Section 9.5 (Indemnity) and Section 9.9 (Non-Public Information; Confidentiality), and Article VIII (Agent) and Article X (Taxes, Yield Protection and Illegality), (ii) the provisions of Section 8.1 of the Guaranty and Security Agreement, in each case, shall (x) survive the termination of the Commitments and the payment in full of all other Obligations and (y) with respect to clause (i) above, inure to the benefit of any Person that at any time held a right thereunder (as an Indemnitee or otherwise) and, thereafter, its successors and permitted assigns and (iii) the provisions set forth in the last paragraph of Section 9.9 (Non-Public Information; Confidentiality) shall survive any permitted assignment hereunder and shall bind any assignor (as well as any assignee) for the term set forth therein.

9.20 Bank Secrecy Act. Each Lender that is subject to the Bank Secrecy Act hereby notifies the Credit Parties that pursuant to the requirements of the Bank Secrecy Act, it is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Lender to identify each Credit Party in accordance with the Bank Secrecy Act.

9.21 Replacement of Lender. Within forty-five (45) days after: (i) receipt by the Borrower Representative of written notice and demand from any Lender (an "**Affected Lender**") for payment of additional costs as provided in Section 10.1, Section 10.3 and/or Section 10.6; (ii) any default by a Lender in its obligation to make Loan hereunder after all conditions thereto have been satisfied or waived in accordance with the terms hereof, provided such default shall not have been cured; or (iii) any failure by any Lender to consent to a requested amendment, waiver or modification to any Loan Document in which Required Lenders have already consented to such amendment, waiver or modification but the consent of each Lender (or each Lender directly affected thereby, as applicable) is required with respect thereto, the Borrowers may, at their option, notify Agent and such Affected Lender (or such defaulting or non-consenting Lender, as the case may be) of the Borrowers' intention to obtain, at the Borrowers' sole expense, a replacement Lender ("**Replacement Lender**") for such Affected Lender (or such defaulting or non-consenting Lender, as the case may be), which Replacement Lender shall be reasonably satisfactory to Agent (except in the event Agent is the Lender being replaced). In the event the Borrowers obtain a Replacement Lender within forty-five (45) days following notice of its intention to do so, the Affected Lender (or defaulting or non-consenting Lender, as the case may be) shall sell and assign its Loans and Commitments to such Replacement Lender, at par; provided that the Borrowers have

reimbursed such Affected Lender for its increased costs for which it is entitled to reimbursement under this Agreement through the date of such sale and assignment. In the event that a replaced Lender does not execute an Assignment and Assumption pursuant to Section 9.8 within five (5) Business Days after receipt by such replaced Lender of notice of replacement pursuant to this Section 9.21 and presentation to such replaced Lender of an Assignment and Assumption evidencing an assignment pursuant to this Section 9.21, the Borrowers shall be entitled (but not obligated) to execute such an Assignment and Assumption on behalf of such replaced Lender, and any such Assignment and Assumption so executed by the Borrowers, the Replacement Lender and Agent, shall be effective for purposes of this Section 9.21 and Section 9.8. Notwithstanding the foregoing, with respect to a Lender that is a Non-Funding Lender or an Impacted Lender, the Borrowers or Agent may obtain a Replacement Lender and execute an Assignment and Assumption on behalf of such Non-Funding Lender or an Impacted Lender at any time and without prior notice to such Non-Funding Lender or an Impacted Lender and cause its Loans and Commitments to be sold and assigned at par. Upon any such assignment and payment and compliance with the other provisions of Section 9.8, such replaced Lender shall no longer constitute a "Lender" for purposes hereof; provided that any rights of such replaced Lender to indemnification hereunder shall survive as to such replaced Lender.

9.22 Joint and Several. The obligations of the Credit Parties hereunder and under the other Loan Documents are joint and several. Without limiting the generality of the foregoing, reference is hereby made to Article II of the Guaranty and Security Agreement, to which the obligations of the Borrowers and the other Credit Parties are subject.

9.23 Creditor-Debtor Relationship. The relationship between Agent and each Lender, on the one hand, and the Credit Parties, on the other hand, is solely that of creditor and debtor. No Secured Party has any fiduciary relationship or duty to any Credit Party arising out of or in connection with, and there is no agency, tenancy or joint venture relationship between the Secured Parties and the Credit Parties by virtue of, any Loan Document or any transaction contemplated therein.

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

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

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

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

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

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

9.25 Recognition of the U.S. Special Resolution Regimes.

(a) To the extent that this Agreement provides support, through a guarantee or otherwise, for swap agreements or any other 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 this Agreement 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).

(b) 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 this Agreement 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 this Agreement 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.

(c) As used in this Section 9.25, the following terms have the following meanings:

(i) **"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.

(ii) "**Covered Entity**" means any of the following:

(1) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §252.82(b);

(2) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §47.3(b); or

(3) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §382.2(b).

(iii) "**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.

(iv) "**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).

ARTICLE X

TAXES, YIELD PROTECTION AND ILLEGALITY

10.1 Taxes.

(a) Except as otherwise provided in this Section 10.1, each payment by or on account of any obligation of any Credit Party under any Loan Document shall be made free and clear of all present or future taxes, levies, imposts, deductions, charges or withholdings and all Liabilities with respect thereto (and without deduction for any of them), unless such withholding is required by law.

(b) If any Taxes shall be required by law to be withheld or deducted from or in respect of any amount payable under any Loan Document to any Secured Party (i) such amount shall be increased as necessary to ensure that, after all such required withholdings or deductions for Taxes are made (including withholdings or deductions applicable to any increases to any amount under this Section 10.1), such Secured Party receives the amount it would have received had no such withholdings or deductions been made, (ii) Agent or relevant Credit Party shall make such withholdings or deductions, (iii) Agent or relevant Credit Party shall timely pay the full amount withheld or deducted to the relevant taxing authority or other authority in accordance with applicable Requirements of Law and (iv) within thirty (30) days after such payment is made, the relevant Credit Party shall deliver to Agent an original or certified copy of a receipt evidencing such payment.

(c) Without duplication of the prior subsections 10.1(a) and (b), in addition, the Borrowers agree to timely pay, and authorize Agent to pay in their name, any stamp, court, documentary, recording, filing, intangible, excise or property tax, charges or similar levies imposed by any applicable Requirement of Law or Governmental Authority and all Liabilities with respect thereto (including by reason of any delay in payment thereof), in each case arising from the execution, delivery or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document or any transaction contemplated therein, except any such Taxes imposed on any Secured Party as a result of a present or former connection between such Secured Party and the jurisdiction of the Governmental Authority imposing such tax or any

political subdivision or taxing authority thereof or therein (other than such connection arising solely from any Secured Party having executed, delivered, become a party to, performed its obligations or received a payment 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) (collectively, "**Other Taxes**"). Within thirty (30) days after the date of any payment of withholding taxes or Other Taxes by any Credit Party, the Borrowers shall furnish to Agent, at its address referred to in Section 9.2, the original or a certified copy of a receipt evidencing payment thereof.

(d) Without duplication of the prior subsections 10.1(a)-(c), the Borrowers shall jointly and severally reimburse and indemnify, within thirty (30) days after receipt of demand therefor (with copy to Agent), each Secured Party for all Taxes and Other Taxes (including any Taxes and Other Taxes imposed by any jurisdiction on amounts paid or payable under this Section 10.1) paid or payable by such Secured Party or required to be withheld or deducted from a payment to such Secured Party and any Liabilities arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted. A certificate of the Secured Party (or of Agent on behalf of such Secured Party) claiming any compensation under this clause (d), setting forth the amounts to be paid thereunder and delivered to the Borrower Representative with copy to Agent, shall be conclusive, binding and final for all purposes, absent manifest error. In determining such amount, Agent and such Secured Party may use any reasonable averaging and attribution methods.

(e) Any Lender claiming any additional amounts payable pursuant to this Section 10.1 shall, if requested by the Borrowers, use its reasonable efforts (consistent with its internal policies and Requirements of Law) to change the jurisdiction of its lending office if such a change would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender.

(f) Status of Lenders

(i) Each Non-U.S. Lender Party that, at any of the following times, is entitled to an exemption from United States withholding tax or is subject to such withholding tax at a reduced rate under an applicable tax treaty, shall (w) on or prior to the date such Non-U.S. Lender Party becomes a "**Non-U.S. Lender Party**" hereunder, (x) on or prior to the date on which any such form or certification expires or becomes obsolete or inaccurate in any respect, (y) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (f) and (z) from time to time if reasonably requested by the Borrower Representative or Agent (or, in the case of a participant or SPV, the relevant Lender), provide Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed originals or certified copies of each of the following, as applicable: (A) IRS Forms W-8ECI (claiming exemption from U.S. withholding tax because the income is effectively connected with a U.S. trade or business), W-8BEN or W-8BEN-E (claiming exemption from, or a reduction of, U.S. withholding tax under an income tax treaty) or W-8IMY (including IRS Forms W-8BEN, W-BEN-E or W-8ECI with respect to each beneficial owner) or any successor forms, (B) in the case of a Non-U.S. Lender Party

claiming exemption for portfolio interest under Section 871(h) or 881(c) of the Code, IRS Form W-8BEN or W-8BEN-E (claiming exemption from U.S. withholding tax under the portfolio interest exemption) or any successor form and a certificate substantially in the form of Exhibit 10.1(f) that such Non-U.S. Lender Party is not (1) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (2) a "10-percent shareholder" of any Borrowers within the meaning of Section 871(h)(3)(B) of the Code, (3) a "controlled foreign corporation" related to any Borrower as described in Section 881(c)(3)(C) of the Code or (4) conducting a trade or business in the United States with which the relevant interest payments are effectively connected or (C) any other applicable document prescribed by the IRS certifying as to the entitlement of such Non-U.S. Lender Party to such exemption from United States withholding tax or reduced rate with respect to all payments to be made to such Non-U.S. Lender Party under the Loan Documents. Unless the Borrower Representative and Agent have received forms or other documents satisfactory to them indicating that payments under any Loan Document to or for a Non-U.S. Lender Party are not subject to United States withholding tax or are subject to such tax at a rate reduced by an applicable tax treaty, the Credit Parties and Agent shall withhold amounts required to be withheld by applicable Requirements of Law from such payments at the applicable statutory rate.

(ii) Each U.S. Lender Party shall (A) on or prior to the date such U.S. Lender Party becomes a "U.S. Lender Party" hereunder, (B) on or prior to the date on which any such form or certification expires or becomes obsolete or inaccurate in any respect, (C) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (f) and (D) from time to time if reasonably requested by the Borrower Representative or Agent (or, in the case of a participant or SPV, the relevant Lender), provide Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two executed copies of IRS Form W-9 (certifying that such U.S. Lender Party is entitled to an exemption from U.S. backup withholding tax) or any successor form.

(iii) Each Lender having sold a participation in any of its Obligations or identified an SPV as such to Agent shall collect from such participant or SPV the documents described in this clause (f) and provide them to Agent.

(iv) If a payment made to a recipient under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower Representative and the Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower Representative or the Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower Representative or the Agent as may be necessary for the Borrower Representative and the Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment.

Solely for purposes of this clause (f)(iv), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(v) If the Agent is a "United States person" (as defined in Section 7701(a)(30) of the Code), it shall provide the Borrower Representative, on or prior to the date that it becomes a party to this Agreement, with two duly completed copies of IRS Form W-9 or (B) if the Agent is not a "United States person" (as defined in Section 7701(a)(30) of the Code), then it shall provide the Borrower Representative with two properly completed IRS Form W-8ECI with respect to fees received on its own behalf and any such other documentation prescribed by applicable Law and reasonably requested by the Borrower Representative that would allow the applicable Borrower Representative to make payments to such Agent without deduction or withholding of any U.S. federal withholding Taxes. If the Agent is not a "United States person" (as defined in Section 7701(a)(30) of the Code), such Agent shall provide the Borrower Representative, on or prior to the date that it becomes a party to this Agreement, with two duly completed copies of IRS Form W-8IMY (or successor form) certifying that it is either (i) a "qualified intermediary" and that it assumes primary withholding responsibility under Chapters 3 and 4 of the Code and primary Form 1099 reporting and backup withholding responsibility for payments it receives for the account of others or (ii) a "U.S. branch" and that the payments it receives for the account of others are not effectively connected with the conduct of a trade or business in the United States and that it is using such form as evidence of its agreement with the Borrower Representative to be treated as a "United States person" (as defined in Section 7701(a)(30) of the Code) with respect to such payments (and the Borrower Representative and the Agent agree to so treat the Agent as a U.S. Person with respect to such payments as contemplated by U.S. Treasury Regulations Section 1.1441-1(b)(2)(iv)(A)), with the effect that the Borrower Representative can make payments to the Agent without deduction or withholding of any taxes imposed by the United States.

(g) Each of Agent and the Lenders agree that if it determines, in its sole discretion exercised in good faith, that it has subsequently recovered, or has received a refund with respect to, any amount of Taxes or Other Taxes (i) previously paid by it and as to which it has been indemnified by or on behalf of the Borrowers or (ii) with respect to which a Credit Party has paid additional sums pursuant to Section 10.1(b) (including, without limitation, any Taxes deducted from any additional sums payable under Section 10.1(b)), Agent or such Lender, as the case may be, shall reimburse the Borrowers to the extent of the amount of any such refund (but only to the extent of indemnity payments made, or additional amounts paid, by or on behalf of the Borrowers under this Section 10.1 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such Agent or Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided, however, that (A) the Borrowers, upon the request of Agent or such Lender, agree to repay to Agent or such Lender, as the case may be, the amount paid over to the Borrowers (together with any penalties, interest or other charges), in the event Agent or such Lender is required to repay such amount to the relevant Governmental Authority; (B) any Lender may determine, in its reasonable discretion consistent with the policies of such Lender, whether to seek a tax benefit; (C) nothing in this Section 10.1 shall require any Lender to disclose any information that it deems confidential (including, without limitation, its tax returns) to any Person, including the Credit Party; and (D) no Lender shall be required to pay any amounts pursuant to this Section 10.1 at any

time at which a Default or Event of Default exists. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid.

10.2 Illegality. If after the date hereof any Lender shall determine that the introduction of any Requirement of Law, or any change in any Requirement of Law or in the interpretation or administration thereof, has made it unlawful, or that any central bank or other Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to make LIBOR Rate Loans, then, on notice thereof by such Lender to the Borrowers through Agent, the obligation of that Lender to make LIBOR Rate Loans shall be suspended until such Lender shall have notified Agent and the Borrower Representative that the circumstances giving rise to such determination no longer exists.

(a) Subject to clause (c) below, if any Lender shall determine that it is unlawful to maintain any LIBOR Rate Loan, the Borrowers shall prepay in full all LIBOR Rate Loans of such Lender then outstanding, together with interest accrued thereon, either on the last day of the Interest Period thereof if such Lender may lawfully continue to maintain such LIBOR Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBOR Rate Loans, together with any amounts required to be paid in connection therewith pursuant to Section 10.4.

(b) If the obligation of any Lender to make or maintain LIBOR Rate Loans has been terminated, the Borrower Representative may elect, by giving notice to such Lender through Agent that all Loans which would otherwise be made by any such Lender as LIBOR Rate Loans shall be instead Base Rate Loans.

(c) Before giving any notice to Agent pursuant to this Section 10.2, the affected Lender shall designate a different Lending Office with respect to its LIBOR Rate Loans if such designation will avoid the need for giving such notice or making such demand and will not, in the judgment of the Lender, be illegal or otherwise disadvantageous to the Lender.

10.3 Increased Costs and Reduction of Return.

(a) If any Lender shall determine that, due to either (i) the introduction of, or any change in, or in the interpretation of, any law or regulation or (ii) the compliance with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), in the case of either clause (i) or (ii) subsequent to the date hereof, there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining any LIBOR Rate Loans, or shall subject such Lender to any taxes, levies, imposts, deductions, charges or withholdings (other than (A) Taxes covered by Section 10.1 and (B) changes in the rate of tax on the overall net income of such Lender and, provided that, if requested by any Borrower, such Lender will use commercially reasonable efforts to designate another lending office to minimize any such taxes if in the sole determination of such Lender such

designation would not be otherwise disadvantageous to such Lender) on its loans, loan principal, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, then the Borrowers shall be liable for, and shall from time to time, within thirty (30) days of demand therefor by such Lender (with a copy of such demand to Agent), pay to Agent for the account of such Lender, additional amounts as are sufficient to compensate such Lender for such increased costs; provided that the Borrowers shall not be required to compensate any Lender pursuant to this Section 10.3(a) for any increased costs incurred more than one hundred eighty (180) days prior to the date that such Lender notifies the Borrower Representative, in writing of the increased costs and of such Lender's intention to claim compensation thereof; provided, further, that if the circumstance giving rise to such increased costs is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If Agent or any Lender shall have determined that:

(i) the introduction of any Capital Adequacy Regulation;

(ii) any change in any Capital Adequacy Regulation;

(iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof; or

(iv) compliance by such Lender (or its Lending Office) or any entity controlling the Lender, with any Capital Adequacy Regulation;

affects the amount of capital or liquidity required or expected to be maintained by such Lender or any entity controlling such Lender and (taking into consideration such Lender's or such entities' policies with respect to capital adequacy or liquidity and such Lender's desired return on capital) determines that the amount of such capital is increased as a consequence of its Commitment(s), loans or obligations under this Agreement, then, within thirty (30) days of demand of such Lender (with a copy to Agent), the Borrowers shall pay to such Lender, from time to time as specified by such Lender, additional amounts sufficient to compensate such Lender (or the entity controlling the Lender) for such increase; provided that the Borrowers shall not be required to compensate any Lender pursuant to this Section 10.3(b) for any amounts incurred more than one hundred eighty (180) days prior to the date that such Lender notifies the Borrower Representative, in writing of the amounts and of such Lender's intention to claim compensation thereof; provided, further, that, if the event giving rise to such increase is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(c) Notwithstanding anything herein to the contrary, (i) all requests, rules, guidelines, requirements and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or by United States or foreign regulatory authorities, in each case pursuant to Basel III, and (ii) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof, shall in each case be deemed to be a Change in Law and/or Capital Adequacy Regulation, regardless of the date enacted, adopted, issued or implemented.

10.4 Funding Losses. The Borrowers agree to reimburse each Lender and to hold each Lender harmless from any loss or expense which such Lender may sustain or incur as a consequence of:

(a) the failure of the Borrowers to make any payment or mandatory prepayment of principal of any LIBOR Rate Loan (including payments made after any acceleration thereof);

(b) the failure of the Borrowers to continue or convert a Loan after the Borrower Representative has given (or is deemed to have given) a Notice of Conversion/Continuation;

(c) the failure of the Borrowers to make any prepayment after the Borrowers have given a notice in accordance with Section 1.6;

(d) the prepayment (including pursuant to Section 1.7) of a LIBOR Rate Loan on a day which is not the last day of the Interest Period with respect thereto; or

(e) the conversion pursuant to Section 1.6 of any LIBOR Rate Loan to a Base Rate Loan on a day that is not the last day of the applicable Interest Period; including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its LIBOR Rate Loans hereunder or from fees payable to terminate the deposits from which such funds were obtained; provided that, with respect to the expenses described in clauses (d) and (e) above, such Lender shall have notified Agent of any such expense within two (2) Business Days of the date on which such expense was incurred. Solely for purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 10.4 and under Section 10.3(a), each LIBOR Rate Loan made by a Lender (and each related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the LIBOR used in determining the interest rate for such LIBOR Rate Loan by a matching deposit or other borrowing in the interbank Eurodollar market for a comparable amount and for a comparable period, whether or not such LIBOR Rate Loan is in fact so funded.

10.5 Inability to Determine Rates. If Agent shall have determined in good faith that for any reason adequate and reasonable means do not exist for ascertaining the LIBOR for any requested Interest Period with respect to a proposed LIBOR Rate Loan or that the LIBOR applicable pursuant to Section 1.3(a) for any requested Interest Period with respect to a proposed LIBOR Rate Loan does not adequately and fairly reflect the cost to the Lenders of funding or maintaining such Loan, Agent will forthwith give notice of such determination to the Borrower Representative and each Lender. Thereafter, the obligation of the Lenders to make or maintain LIBOR Rate Loans hereunder shall be suspended until Agent revokes such notice in writing. Upon receipt of such notice, the Borrower Representative may revoke any Notice of Conversion/Continuation then submitted by it. If the Borrower Representative does not revoke such notice, the Lenders shall make, convert or continue the Loans, as proposed by the Borrower Representative, in the amount specified in the applicable notice submitted by the Borrower Representative, but such Loans shall be made, converted or continued as Base Rate Loans.

10.6 Reserves on LIBOR Rate Loans. The Borrowers shall pay to each Lender, as long as such Lender shall be required under regulations of the Federal Reserve Board to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or

deposits (currently known as "**Eurocurrency liabilities**"), additional costs on the unpaid principal amount of each LIBOR Rate Loan equal to actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), payable on each date on which interest is payable on such Loan; provided that the Borrower Representative shall have received at least fifteen (15) days' prior written notice (with a copy to Agent) of such additional interest from the Lender. If a Lender fails to give notice fifteen (15) days prior to the relevant Interest Payment Date, such additional interest shall be payable fifteen (15) days from receipt of such notice.

10.7 Certificates of Lenders. Any Lender claiming reimbursement or compensation pursuant to this Article X shall deliver to the Borrower Representative (with a copy to Agent) a certificate setting forth in reasonable detail the amount payable to such Lender hereunder and such certificate shall be conclusive and binding on the Borrowers in the absence of manifest error.

ARTICLE XI

DEFINITIONS

11.1 Defined Terms. The following terms are defined in the Sections or subsections referenced opposite such terms:

In addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

"**Account**" means, as at any date of determination, all "accounts" (as such term is defined in the UCC) of Holdings and its Subsidiaries, including, without limitation, the unpaid portion of the obligation of a customer of Holdings or any of its Subsidiaries in respect of Inventory purchased by and shipped to such customer and/or the rendition of services by Holdings or such Subsidiary, as stated on the respective invoice of Holdings or such Subsidiary, net of any credits, rebates or offsets owed to such customer.

"**Acquisition**" means any transaction or series of related transactions for the purpose of or resulting, directly or indirectly, in (a) the acquisition of all or substantially all of the assets of a Person, or of any business or division of a Person, (b) the acquisition of in excess of fifty percent (50%) of the Stock and Stock Equivalents of any Person or otherwise causing any Person to become a Subsidiary of Holdings, or (c) a merger or consolidation or any other combination with another Person.

"**Additional Term Notes**" means first priority senior secured notes and/or junior lien secured notes and/or unsecured notes, in each case issued pursuant to an indenture, note purchase agreement or other agreement and in lieu of the incurrence of a portion of the Incremental Facility; provided that (a) such Additional Term Notes rank *pari passu* or junior in right of payment and (if secured) of security with the Loans and Commitments hereunder, (b) the Additional Term Notes have a final maturity date that is on or after the Term Loan Maturity Date with respect to the Initial Term Loans and have a Weighted Average Life to Maturity equal to or longer than the remaining Weighted Average Life to Maturity of the Initial Term Loans, and shall not require any mandatory prepayments (other than related to AHYDO Payments or customary asset sale, casualty event and change of control offers), scheduled amortization or sinking fund or similar payments until the payment of full of the Terms Loans (c) the covenants and events of default and other terms of which (other than maturity, fees, discounts, interest rate, redemption terms and redemption premiums) shall be taken as a whole no more restrictive than the Initial Term Loans, (d) the obligations in respect thereof shall not be secured by liens on the assets of Holdings, the Borrowers and the Subsidiaries, other than assets constituting Collateral, (e) no Subsidiary is a borrower or a guarantor with respect to such Indebtedness unless such Restricted Subsidiary is a Credit Party which shall have previously or substantially concurrently guaranteed the Obligations, (f) if such Additional Term Notes are secured, all security therefor shall be granted pursuant to documentation that is not more restrictive than the Collateral Documents in any material respect or pursuant to amendments to the Collateral Documents reasonably acceptable to Agent (at the direction of Required Lenders), and the representative for such Additional Term Notes shall enter into a customary intercreditor agreement with Agent in form and substance reasonably acceptable to Agent (at the direction of Required Lenders) and the Borrower Representative (it being

understood that junior Liens are not required to be *pari passu* with other junior Liens, and that Indebtedness secured by junior Liens may be secured by Liens that are *pari passu* with, or junior in priority to, other Liens that are junior to the Liens securing the Obligations) and (g) immediately after giving effect to the incurrence of such Additional Term Notes (assuming, solely for purposes of this definition and not for any other provision hereunder, that (i) such Additional Term Notes are fully drawn, (ii) all of such Additional Term Notes are secured on a first lien basis, whether or not so secured, for all purposes of calculating the First Lien Net Leverage Ratio under this definition and Section 1.12 from and after the date of incurrence of such Additional Term Notes and (iii) the proceeds of such Additional Term Notes are not included in clause (i) of the definition of First Lien Net Leverage Ratio), on a Pro Forma Basis, the First Lien Net Leverage Ratio shall not be greater than 4.00:1.00 as of the Applicable Date of Determination.

"**Adjusted EBITDA**" means, for any Reference Period, EBITDA for such Reference Period plus with respect to Targets owned by the Credit Parties for which Agent has received financial statements pursuant to Section 4.1(b) for less than twelve (12) months, Pro Forma EBITDA allocated to each month prior to the acquisition thereof included in such Reference Period minus with respect to any Disposition consummated within such Reference Period, EBITDA attributable to the Subsidiary, profit centers, or other asset which is the subject of such Disposition from the beginning of such Reference Period until the date of consummation of such Disposition.

"**Administrative Questionnaire**" means an Administrative Questionnaire in substantially the form of Exhibit 11.1(g) or any other form approved by Agent.

"**Affiliate**" means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. A Person shall be deemed to control another Person if the controlling Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other Person, whether through the ownership of voting securities, by contract or otherwise. Without limitation, any director, executive officer or beneficial owner of ten percent (10%) or more of the Stock (either directly or through ownership of Stock Equivalents) of a Person shall for the purposes of this Agreement, be deemed to be an Affiliate of such Person. Notwithstanding the foregoing, neither Agent nor any Lender shall be deemed an "Affiliate" of any Credit Party or of any Subsidiary of any Credit Party solely by reason of the provisions of the Loan Documents.

"**Agent**" means Wilmington Savings Fund Society, FSB in its capacities as administrative agent and collateral agent for the Lenders hereunder, and any successor Agent.

"**Applicable Date of Determination**" means the last day of the most recently ended Fiscal Quarter for which financial statements are available pursuant to Sections 4.1(a) or 4.1(b), as applicable, or, if such date occurs prior to the date on which financial statements are available pursuant to Sections 4.1(a) or 4.1(b), as applicable, the last day of the most recently ended Fiscal Quarter for which financial statements were delivered under Section 2.1(a).

"**Applicable Intercreditor Agreement**" means, with respect to the Working Capital Facility, any Incremental Term Loans, Additional Term Notes, Unrestricted Additional Term Notes and Permitted Refinancings of any of the foregoing, the applicable intercreditor agreement with respect thereto.

"**Applicable Margin**" means, at any date, with respect to each Term Loan that is a (i) Base Rate Loan, 6.50% *per annum* and (ii) LIBOR Rate Loan, 7.50% *per annum*.

"**Approved Fund**" means, with respect to any Lender, any Person (other than a natural Person) that (a) (i) is or will be engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the Ordinary Course of Business or (ii) temporarily warehouses loans for any Lender or any Person described in clause (i) above and (b) is advised or managed by (i) such Lender, (ii) any Affiliate of such Lender or (iii) any Person (other than an individual) or any Affiliate of any Person (other than an individual) that administers or manages such Lender.

"**Assignment and Assumption**" means an assignment agreement entered into by a Lender, as assignor, and any Person, as assignee, pursuant to the terms and provisions of Section 9.8 (with the consent of any party whose consent is required by Section 9.8), substantially in the form of Exhibit 11.1(a) or any other form approved by Agent.

"**Attorney Costs**" means and includes all reasonable fees and disbursements of any law firm or other external counsel.

"**Available Amount**" means at any date (the "**Available Amount Reference Time**"), an amount, not less than zero, determined on a cumulative basis, equal to (without duplication):

(i) the Cumulative Excess Cash Flow at such date; plus

(ii) the aggregate amount of Net Issuance Proceeds received from any Equity Issuances (or issuance of debt securities that have been converted into or exchanged for Qualified Capital Stock of Holdings (or Topco or any other direct or indirect parent)) during the period from and including the Business Day immediately following the Closing Date through and including the Available Amount Reference Time (to the extent not otherwise applied pursuant Sections 5.4(q) or 5.14(a) herein); plus

(iii) the aggregate Net Proceeds and fair market value (as reasonably determined by the Borrowers) of marketable securities or other property received by Holdings or a Restricted Subsidiary since the Closing Date from any person other than Holdings or a Restricted Subsidiary; plus

(iv) (a) the Net Proceeds of sales and other dispositions of Investments made using the Available Amount (to the extent not required to prepay the Loans pursuant to this Agreement) plus (b) returns, profits, distributions and similar amounts received on Investments made using the Available Amount; plus

(v) to the extent not (i) already included in the calculation of net income of Holdings and the Restricted Subsidiaries or (ii) already reflected as a return of capital or deemed reduction in the amount of such Investment pursuant to clause (x) below or any provision of Section 5.4, the aggregate amount of all cash dividends and other cash distributions received by any Restricted Subsidiary, any Borrower or Holdings from any joint ventures or Unrestricted Subsidiaries during the period from the Business Day immediately following the Closing Date through and including the Available Amount Reference Time; plus

(vi) to the extent not (i) already included in the calculation of net income of Holdings and the Restricted Subsidiaries or (ii) already reflected as a return of capital or deemed reduction in the amount of such Investment pursuant to clause (x) below or any provision of Section 5.4, the aggregate amount of all Net Proceeds received by any Restricted Subsidiary, any Borrower or Holdings in connection with the sale, transfer or other disposition of its ownership interest in any joint venture or Unrestricted Subsidiary during the period from the Business Day immediately following the Closing Date through and including the Available Amount Reference Time; plus

(vii) (a) Investments by either Borrower or any Restricted Subsidiary in any Unrestricted Subsidiary that has been re-designated as a Restricted Subsidiary or that has been merged or consolidated into either Borrower or any Restricted Subsidiary and (b) the fair market value of all assets of an Unrestricted Subsidiary that have been transferred to either Borrower or any of their Restricted Subsidiaries; plus

(viii) any Retained Declined Proceeds solely to the extent not otherwise applied or required to be applied to pay any other lender or noteholder entitled to a mandatory prepayment with respect to such proceeds; minus

(ix) (i) the aggregate amount of Investments made pursuant to Sections 5.4(h), 5.4(p) or 5.4(q) using the Available Amount, (ii) the aggregate amount of Restricted Payments made pursuant to Sections 5.7(d) using the Available Amount, and (iii) the aggregate amount of prepayment of indebtedness pursuant to Sections 5.14(a) and 5.14(g)(i) using the Available Amount, in each case during the period from and including the Business Day immediately following the Closing Date through and including the Available Amount Reference Time (without taking account of the intended usage of the Available Amount on such Available Amount Reference Time).

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

"**Bail-In Legislation**" means, 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 for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"**Bank Secrecy Act**" means the law set forth at 31 U.S.C. 5311 et seq. and 12 U.S.C. §1829b and the implementing regulations set forth at 31 CFR Part X.

"**Bankruptcy Code**" means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. §101, et seq.).

"**Base Rate**" means, for any day, a fluctuating rate *per annum* equal to the highest of (a) the rate of interest *per annum* publicly announced from time to time by Agent as its prime rate in effect at its principal office in New York City, (b) the sum of 0.50% *per annum* and the Federal Funds Rate, and (c) the sum of (x) LIBOR calculated for each such day based on an Interest Period of one month determined two (2) Business Days prior to such day (but for the avoidance of doubt not less than one percent (1.00%) *per annum*), plus (y) one percent (1.00%). The "prime rate" is

a rate set by Wilmington Savings Fund Society, FSB based upon various factors including Wilmington Savings Fund Society, FSB's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in the Base Rate due to a change in any of the foregoing shall be effective at the opening of business on the day specified in the public announcement of such change.

"**Base Rate Loan**" means a Loan that bears interest based on the Base Rate.

"**Benchmark Replacement**" means the sum of: (a) the alternate benchmark rate (which may be a SOFR-Based Rate) that has been selected by Agent and the Borrowers, giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body and/or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to LIBOR for Dollar-denominated syndicated credit facilities and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than zero, the Benchmark Replacement will be deemed to be zero for purposes of this Agreement.

"**Benchmark Replacement Adjustment**" means, with respect to any replacement of LIBOR with an Unadjusted Benchmark Replacement for each applicable Interest Period, the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero) that has been selected by Agent and the Borrowers, giving due consideration to (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body and/or (b) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of LIBOR with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities at such time.

"**Benchmark Replacement Conforming Changes**" means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Interest Period," timing and frequency of determining rates and making payments of interest and other administrative matters) that Agent and the Borrowers reasonably decide may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by Agent in a manner substantially consistent with market practice (or, if Agent decides that adoption of any portion of such market practice is not administratively feasible or if Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as Agent and the Borrowers reasonably decide is reasonably necessary in connection with the administration of this Agreement).

"**Benchmark Replacement Date**" means the earlier to occur of the following events with respect to LIBOR: (a) in the case of clause (a) or (b) of the definition of "Benchmark Transition Event," the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of LIBOR permanently or indefinitely ceases to provide LIBOR; and (b) in the case of clause (c) of the definition of "Benchmark Transition

Event," the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which such public statement or publication has deemed LIBOR to be no longer representative.

"**Benchmark Transition Event**" means the occurrence of one or more of the following events with respect to LIBOR: (a) a public statement or publication of information by or on behalf of the administrator of LIBOR announcing that such administrator has ceased or will cease to provide LIBOR, permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide LIBOR; (b) a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR, the U.S. Federal Reserve System, an insolvency official with jurisdiction over the administrator for LIBOR, a resolution authority with jurisdiction over the administrator for LIBOR or a court or an entity with similar insolvency or resolution authority over the administrator for LIBOR, which states that the administrator of LIBOR has ceased or will cease to provide LIBOR permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide LIBOR; or (c) a public statement or publication of information by the regulatory supervisor for the administrator of LIBOR announcing that LIBOR is no longer representative and such changes are unlikely to be temporary.

"**Benchmark Transition Start Date**" means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the forty-fifth (45th) day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than forty-five (45) days after such statement or publication, the date of such statement or publication) and (b) in the case of an Early Opt-in Election, the date specified by Agent or the Required Lenders, as applicable, and, in each case, consented to by the Borrowers in writing (such consent not to be unreasonably withheld, conditioned or delayed), and notified in writing to Agent (in the case of such notice by the Required Lenders) and the Lenders.

"**Benchmark Unavailability Period**" means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to LIBOR and solely to the extent that LIBOR has not been replaced with a Benchmark Replacement, the period (a) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced LIBOR for all purposes hereunder in accordance with Section 1.13 and (b) ending at the time that a Benchmark Replacement has replaced LIBOR for all purposes hereunder pursuant to Section 1.13.

"**Beneficial Ownership Certification**" means a certification regarding beneficial ownership or control as required by the Beneficial Ownership Regulation.

"**Beneficial Ownership Regulation**" means 31 C.F.R. § 1010.230.

"**Benefit Plan**" means an employee benefit plan as defined in Section 3(3) of ERISA (whether governed by the laws of the United States or otherwise) to which any Credit Party incurs or otherwise has any obligation or liability, contingent or otherwise.

"**Bona Fide Debt Funds**" means any debt fund affiliate of a Direct Competitor that is primarily engaged in, or advises funds or other investment vehicles that are engaged in, making, purchasing, holding or otherwise investing in commercial loans, notes, bonds and similar extensions of credit or securities in the ordinary course of its business and whose managers are not involved with the investment of such competitor or affiliate.

"**Borrowing**" means a borrowing hereunder consisting of Loans made to or for the benefit of the Borrowers on the same day by the Lenders pursuant to Article I.

"**Business Day**" means any day other than a Saturday, Sunday or other day on which federal reserve banks are authorized or required by law to close and, if the applicable Business Day relates to any LIBOR Rate Loan, a day on which dealings are carried on in the London interbank market.

"**Capital Adequacy Regulation**" means any guideline, request or directive of any central bank or other Governmental Authority, or any other law, rule or regulation, whether or not having the force of law, in each case, regarding capital adequacy or liquidity of any Lender or of any corporation controlling a Lender.

"**Capital Expenditures**" means, for any period, the aggregate of all expenditures and obligations for the addition to fixed or capital assets or additions to equipment (including replacements, capitalized repairs and improvements during such period) which should be capitalized under GAAP less, to the extent such items would otherwise constitute "Capital Expenditures" under the definition hereof, (a) Net Proceeds from (i) Dispositions, (ii) other sales or transfers of Property permitted under Section 5.2 (other than Section 5.2(b)(i)) and excluded from the definition of Dispositions, and/or (iii) Events of Loss, in each case, which a Credit Party is permitted to reinvest pursuant to Section 1.7(b) (or otherwise is not required to be used to make a prepayment pursuant to Section 1.7(b)), (b) expenditures financed with Net Issuance Proceeds of Qualified Capital Stock by Holdings (the proceeds of which have been contributed as cash common equity to Intermediate Holdings, which in turn were contributed to another Credit Party that is a Subsidiary of Intermediate Holdings), (c) amounts paid as the purchase price for a Target in a Permitted Acquisition or Other Investment Acquisition and (d) expenditures made to effect leasehold improvements to any real property leased by the Credit Parties or their Subsidiaries, to the extent that such expenditures have been reimbursed in cash by the landlord. For the avoidance of doubt, Capital Expenditures shall not include any (i) capitalized interest expenses or (ii) non-cash compensation or other non-cash costs which are capitalized (provided that such non-expenses or non-cash costs shall be considered Capital Expenditures in any period to the extent they become cash expenses or cash costs in such period).

"**Capital Lease**" means any leasing or similar arrangement which, in accordance with GAAP, is classified as a capital lease.

"**Capital Lease Obligations**" means all monetary obligations of any Credit Party or any Subsidiary of any Credit Party under any Capital Leases.

"**Cash Equivalents**" means (a) any securities (i) issued by, or fully guaranteed or insured by the United States federal government or (ii) issued by any agency of the United States federal

government the obligations of which are fully backed by the full faith and credit of the United States federal government, (b) any direct obligations issued by any other agency of the United States federal government, any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case having a rating of at least "A-1" from S&P or at least "P-1" from Moody's, (c) any commercial paper rated at least "A-1" by S&P or "P-1" by Moody's and issued by any Person organized under the laws of any state of the United States, (d) any certificates of deposit, Dollar-denominated time deposit, repurchase agreements, reverse repurchase agreements, insured certificate of deposit, overnight bank deposit or bankers' acceptance issued or accepted by (i) any Lender or (ii) any commercial bank that is (A) organized under the laws of the United States, any state thereof or the District of Columbia, (B) "adequately capitalized" (as defined in the regulations of its primary federal banking regulators) and (C) has Tier 1 capital (as defined in such regulations) in excess of $250,000,000 and (e) shares of any United States money market fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clause (a), (b), (c) or (d) above with maturities as set forth in the proviso below, (ii) has net assets in excess of $500,000,000 and (iii) has obtained from either S&P or Moody's the highest rating obtainable for money market funds in the United States; provided, however, that the maturities of all obligations specified in any of clauses (a), (b), (c) or (d) above shall not exceed three hundred sixty five (365) days.

"**Cash Flow**" means, for any Fiscal Year, EBITDA minus Unfinanced Capital Expenditures.

"**Change in Law**" means the occurrence, after the Closing Date, of any of the following: (a) the adoption of any law, rule or regulation, (b) any change in any law, rule or regulation or application or interpretation thereof by any governmental authority or (c) compliance by any Lender with any written request, rule, guideline or directive (whether or not having the force of law) by any governmental authority; provided that notwithstanding anything herein to the contrary (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) Basel III and all requests, rules, guidelines or directives thereunder or issued in connection therewith, shall, in each case, be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued.

"**Change of Control**" means at any time one or more of the following occurs (including pursuant to any sale, assignment, transfer, LLC Division or other Disposition): (i) Holdings shall cease to own, directly or indirectly, one hundred percent (100%) of the issued and outstanding Stock and Stock Equivalents of Intermediate Holdings, (ii) Intermediate Holdings shall cease to own, directly or indirectly, one hundred percent (100%) of the issued and outstanding Stock and Stock Equivalents of the Borrowers, or (iii) after the occurrence of an initial public offering, any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), other than any Person who was a lender under the Existing Credit Agreement on or prior to the Closing Date and that receives Stock or Stock Equivalents pursuant to the Plan of Reorganization, is or shall at any time become the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of the greater of (a) thirty percent (30%) or more on a fully diluted basis of the economic or voting interests in Holdings' Stock and Stock Equivalents and (b) the percentage (measured on a fully diluted basis) of the economic or voting interests in Holdings' Stock and Stock Equivalents then owned, directly or indirectly, by such Lender or group of Lenders.

"**Class**", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Term Loans or Incremental Term Loans, or, when used in reference to any Commitment, refers to whether such Commitment is a Term Loan Commitment, Incremental Term Commitment and, when used in reference to any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class. Incremental Term Loans (together with the respective Commitments in respect thereof) shall, at the election of the Borrowers, be construed to be in different Classes.

"**Closing Date**" means the date on which each of the conditions set forth in Section 2.1 shall have been satisfied or waived in accordance with the terms hereof.

"**Clover**" means Clover Technologies Group, LLC, a Delaware limited liability company.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Collateral**" means all Property and interests in Property and proceeds thereof now owned or hereafter acquired by any Credit Party, any of their respective Subsidiaries and any other Person who has granted a Lien to Agent, in or upon which a Lien is granted or purported to be granted now or hereafter exists in favor of any Lender or Agent for the benefit of Agent, Lenders and other Secured Parties, whether under this Agreement or under any other documents executed by any such Persons and delivered to Agent. Notwithstanding anything to the contrary, Collateral shall not include (a) more than sixty-five percent (65%) of the voting Stock or Stock Equivalent of any Foreign Subsidiary or U.S. Foreign Holdco or (b) any assets or property (including any Stock or Stock Equivalent of a Subsidiary) of a Foreign Subsidiary or U.S. Foreign Holdco (or, in each case, a Subsidiary thereof).

"**Collateral Documents**" means, collectively, the Guaranty and Security Agreement, the Mortgages and all other security agreements, pledge agreements, patent and trademark security agreements, lease assignments, guarantees and other similar agreements, and all amendments, restatements, modifications or supplements thereof or thereto, by or between any one or more of any Credit Party, any of their respective Subsidiaries or any other Person pledging or granting a lien on Collateral or guaranteeing the payment and performance of the Obligations, and any Lender or Agent for the benefit of Agent, the Lenders and other Secured Parties now or hereafter delivered to the Lenders or Agent pursuant to or in connection with the transactions contemplated hereby, and all financing statements (or comparable documents now or hereafter filed in accordance with the UCC or comparable law) against any such Person as debtor in favor of any Lender or Agent for the benefit of Agent, the Lenders and the other Secured Parties, as secured party, as any of the foregoing may be amended, restated and/or modified from time to time.

"**Commitment**" means, for each Lender, its Term Loan Commitment and, if applicable, any commitment with respect to an Incremental Facility or any combination thereof.

"**Commodity Exchange Act**" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

"**Compliance Certificate**" shall mean a certificate of the Borrowers executed and delivered by a Responsible Officer of the Borrower Representative, substantially in the form of Exhibit 4.2(b).

"**Compounded SOFR**" means the compounded average of SOFRs for the applicable Corresponding Tenor, with the rate, or methodology for this rate, and conventions for this rate (which may include compounding in arrears with a lookback and/or suspension period as a mechanism to determine the interest amount payable prior to the end of each Interest Period), established in accordance with:

(i) the rate, or methodology for this rate, and conventions for this rate selected or recommended by the Relevant Governmental Body for determining compounded SOFR; and

(ii) if, and to the extent that, Agent and the Borrowers reasonably determine that Compounded SOFR cannot be determined in accordance with clause (i) above, then the rate, or methodology for this rate, and conventions for this rate that Agent and the Borrowers reasonably determine are substantially consistent with any evolving or then-prevailing market convention for determining compounded SOFR for Dollar-denominated syndicated credit facilities at such time.

"**Confirmation Order**" means the Findings of Fact, Conclusions of Law, and Order Approving the Debtors' Disclosure Statement for, and Confirming the Joint Prepackaged Chapter 11 Plan of Reorganization of Clover Technologies Group, LLC and its Debtor Affiliates entered by the Court on January [__], 2020 in the Chapter 11 Cases.

"**Consolidated Total Assets**" means, as of any date, the total consolidated assets of Holdings and its Restricted Subsidiaries without giving effect to any amortization or write off of the amount of intangible assets since the Closing Date (or with respect to assets acquired after the Closing Date, the date such assets were acquired by Holdings or its Restricted Subsidiary), determined in accordance with GAAP, as set forth on the consolidated balance sheet of Holdings and its Restricted Subsidiaries as of such date.

"**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person: (a) with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (b) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (c) under any Rate Contracts; (d) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (e) for the obligations of another Person through any agreement to purchase, repurchase or otherwise acquire such obligation or any Property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another Person. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed or supported.

"**Contractual Obligations**" means, as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, deed of trust or

other instrument, document or agreement to which such Person is a party or by which it or any of its Property is bound.

"**Conversion Date**" means any date on which the Borrowers convert a Base Rate Loan to a LIBOR Rate Loan or a LIBOR Rate Loan to a Base Rate Loan.

"**Copyrights**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to works of authorship, copyrights and all mask work, database and design rights, whether or not registered or published, all registrations and recordations thereof and all applications in connection therewith.

"**Corresponding Tenor**" with respect to a Benchmark Replacement means a tenor (including overnight) having approximately the same length (disregarding Business Day adjustment) as the applicable tenor for the applicable Interest Period with respect to LIBOR.

"**Credit Parties**" means Holdings, Intermediate Holdings, each Borrower and each other Person (i) which executes a guaranty of the Obligations and (ii) which grants a Lien on all or substantially all of its assets to secure payment of the Obligations. A list of the Credit Parties as of the Closing Date is provided on Schedule 11.1(b).

"**Cumulative Excess Cash Flow**" means, as of any date of determination, (a) the sum of Excess Cash Flow (if positive) for each fiscal year of Holdings commencing with the Fiscal Year ending December 31, 2020 for which (i) financial statements have been delivered pursuant to Section 4.1(a) and (ii) any mandatory prepayment required to be made pursuant to Section 1.7(d) has been made, minus (b) the aggregate principal amount of mandatory prepayments made or required to be made pursuant to Section 1.7(d) in respect of Excess Cash Flow for the periods referred to in clause (a).

"**Current Assets**" means, at any date, all amounts (other than cash and Cash Equivalents) that would, in conformity with GAAP, be set forth opposite the caption "total current assets" (or any like caption) on a consolidated balance sheet of Holdings and its Subsidiaries at such date, excluding the effects of the application of purchase accounting rules as such application is determined in accordance with GAAP.

"**Current Liabilities**" means, at any date, all amounts that would, in conformity with GAAP, be set forth opposite the caption "total current liabilities" (or any like caption) on a consolidated balance sheet of Holdings and its Subsidiaries at such date, but excluding (a) the current portion of Indebtedness of Holdings and its Subsidiaries and (b) the effects of the application of purchase accounting rules as such application is determined in accordance with GAAP.

"**Debt Fund Affiliate**" means any affiliate of Holdings that is not an owner of equity interests in Holdings and that is a Bona Fide Debt Fund or an investment vehicle that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course whose managers have independent fiduciary duties to their investors in such funds or investment vehicles.

"**Debtor Relief Laws**" means the Bankruptcy Code of the United States, 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.

"**Default**" means any event or circumstance which, with the giving of notice, the lapse of time, or both, would (if not cured or otherwise remedied during such time) constitute an Event of Default.

"**Defaulting Lender**" means any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies Agent and the Borrowers in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to Agent or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due, (b) has notified the Borrowers or Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by Agent or the Borrowers, to confirm in writing to Agent and the Borrowers that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by Agent and the Borrowers), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender as of the date established therefor by Agent in a written notice of such determination, which shall be delivered by Agent to the Borrowers and each other Lender promptly following such determination.

"**Designated Noncash Consideration**" shall mean the fair market value at the time received (as determined in good faith by the Borrower Representative) of any non-cash consideration received by Holdings or a Restricted Subsidiary in connection with a disposition that is designated as Designated Noncash Consideration pursuant to a certificate of a Responsible

Officer of the Borrower Representative, minus the amount of cash or Cash Equivalents received in connection with a subsequent payment, redemption, retirement, sale or other disposition of such Designated Noncash Consideration. A particular item of Designated Noncash Consideration will no longer be considered to be outstanding when and to the extent it has been paid, redeemed or otherwise retired or sold or otherwise disposed of in compliance with Section 5.2.

"**Direct Competitor**" means any Person identified in writing to Agent prior to the date hereof who is a direct competitor of Holdings or any of its Subsidiaries (or affiliates of any such competitors) and any other affiliates of the foregoing (other than Bona Fide Debt Funds) that are either (i) identified in writing to Agent prior to the date hereof or (ii) readily identifiable on the basis of such affiliate's name and as such list may be updated by the Borrower Representative (by furnishing such updates to Agent in writing) from time to time thereafter.

"**Disposition**" means (a) the sale, lease, conveyance or other disposition of Property, other than sales or other dispositions expressly permitted under Section 5.2 (other than Sections 5.2(c), 5.2(n) and 5.2(q)), and (b) the sale or transfer by Holdings, Intermediate Holdings, a Borrower or any Subsidiary of a Borrower of any Stock or Stock Equivalent issued by any Subsidiary of a Borrower and held by such transferor Person.

"**Disqualified Capital Stock**" means any Stock which, by its terms (or by the terms of any security or other Stock 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 Capital Stock), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Capital Stock), in whole or in part, (c) provides for the scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Stock that would constitute Disqualified Capital Stock, in each case, prior to the date that is ninety-one (91) days after the Term Loan Maturity Date.

"**Disqualified Lender**" means any Person identified in writing to Agent prior to the date hereof and any Affiliate thereof readily identifiable on the basis of such Affiliate's name and as such list may be updated by the Borrower Representative from time to time thereafter with the reasonable consent of Agent.

"**Dollars**", "dollars" and "$" each mean lawful money of the United States of America.

"**Domestic Subsidiary**" means any Subsidiary incorporated, organized or otherwise formed under the laws of the United States, any state thereof or the District of Columbia.

"**Early Opt-in Election**" means the occurrence of (1) (i) a determination by Agent or (ii) a notification by the Required Lenders to Agent (with a copy to the Borrowers) that the Required Lenders have determined that U.S. dollar-denominated syndicated credit facilities being executed at such time, or that include language similar to that contained in Section 1.13 are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace LIBOR,

and (2) (i) the election by Agent and the Borrowers or (ii) the election by the Required Lenders with the written consent of the Borrowers (such consent not to be unreasonably withheld, conditioned or delayed) to declare that an Early Opt-in Election has occurred and the provision, as applicable, by Agent and the Borrowers of written notice of such election to the Lenders or by the Required Lenders and the Borrowers of written notice of such election to Agent and the other Lenders.

"**EBITDA**" means, for any Reference Period, net income (or loss) for such Reference Period of Holdings and its Restricted Subsidiaries on a consolidated basis determined in accordance with GAAP, but excluding:

(i) the income (or loss) of any Person which is not a Restricted Subsidiary of Holdings, except to the extent of the amount of dividends or other distributions actually paid to Holdings or any of its Restricted Subsidiaries in cash by such Person during such Reference Period and the payment of dividends or similar distributions by that Person is not at the time prohibited by operation of the terms of its charter or of any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Person;

(ii) gains or losses from the sale, exchange, transfer or other disposition of Property or assets not in the Ordinary Course of Business of Holdings and its Restricted Subsidiaries, and related tax effects in accordance with GAAP;

(iii) any other extraordinary or non-recurring gains, or losses or charges of Holdings or its Restricted Subsidiaries, and related tax effects in accordance with GAAP; and

(iv) gains from the repurchase of Indebtedness of such Person,

plus, without duplication and to the extent deducted in calculating net income (or loss) for such Reference Period (other than clauses (l) or (o) below), the sum of:

(a) all amounts in respect of depreciation or amortization for such Reference Period,

(b) Interest Expense (including fees in connection with letters of credit and similar instruments) (less interest income),

(c) all accrued taxes on or measured by income, profits or capital, including federal, foreign state, franchise, excise and similar taxes and foreign withholding taxes paid or accrued during such Reference Period, including any penalties and interest relating to any tax examinations,

(d) all directors' fees and expenses paid or accrued during such Reference Period not to exceed $1,000,000 per fiscal year of Holdings,

(e) (i) all non-cash charges, losses or expenses (or minus non-cash income or gain other than recordings of revenue or accruals in the Ordinary Course of Business) (provided that if such amount represents an accrual or a reserve for a cash expenditure or payment to be made, or anticipated to be made, in a future period, such amount shall be deducted from EBITDA

when actually made in cash), including, without limitation, any non-cash loss or expense relating to the vesting of warrants or due to the application of FAS No. 106 regarding post-retirement benefits, FAS No. 133 regarding hedging activity, FAS No. 141R regarding the accrual of earnouts, FAS No. 142 regarding impairment of goodwill and intangibles, FAS No. 150 regarding accounting for financial instruments with debt and equity characteristics and non-cash expenses deducted as a result of any grant of Stock or Stock Equivalents to employees, officers or directors and (ii) (y) all non-cash foreign currency charges, losses or expenses and (z) cash foreign currency charges, losses or expenses with respect to intercompany Indebtedness or intercompany accounts (provided that, with respect to clause (ii), that EBITDA shall also be reduced by the amount of any (I) non-cash foreign currency gain and (II) cash foreign currency gain with respect to intercompany Indebtedness and intercompany accounts),

(f) the effect of the application of purchase accounting rules as determined in accordance with GAAP and the cumulative effect of any change in accounting principles,

(g) fees and expenses incurred in connection with (i) acquisitions prior to the date hereof (including, but not limited to charges and losses on account of purchase price adjustments and earn-out payments) or (ii) Permitted Acquisitions (including, but not limited to, charges and losses on account of purchase price adjustments and earn-out payments), the Transactions, investments, Dispositions, consolidations, recapitalizations, equity issuances, and financings (including any amendments, waivers, other modifications, repayments or any incurrence thereof) whether or not consummated (each such transaction described in this clause (g), an "**EBITDA Transaction**"),

(h) fees, costs and expenses paid in connection with the Loan Documents (including fees, costs and expenses incurred in connection with obtaining credit ratings),

(i) fees and expenses with respect to Rate Contracts (to the extent occurring during the period of calculation),

(j) charges, costs and expenses incurred in connection with future expansion, restructuring and business optimization projects, non-recurring strategic initiatives and projects, upfront contract rebates and fees paid to customers, any restructuring or integration in connection with any EBITDA Transaction, the closure and/or consolidation of facilities, retention, contract termination, recruiting, relocation, severance, reduction in work force and signing bonuses and expenses and one-time costs related to enhanced accounting functions associated with becoming a public company, in each case that are factually supportable and certified by a Responsible Officer of Topco; provided that all such adjustments for such Reference Period pursuant to this clause (k), in the aggregate, shall not exceed twenty percent (20%) of EBITDA (calculated before giving effect to such adjustments) in any Reference Period,

(k) compensation expenses resulting from (i) the repurchase of equity interests of Topco from employees, directors or consultants of Holdings or any of its Subsidiaries, in each case, to the extent permitted by this Agreement, (ii) any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, and (iii) payments to employees, directors or officers of Holdings and its Restricted Subsidiaries paid in connection with Restricted Payments that are otherwise permitted

hereunder to the extent such payments are not made in lieu of, or a substitution for, ordinary salary or ordinary payroll payments,

(l) proceeds of business interruption insurance to the extent such proceeds are received by Holdings or any Restricted Subsidiary during such Reference Period or there exists reasonable evidence that such proceeds will be received by Holdings or any Subsidiary in a subsequent Reference Period and within one year of the date of the underlying loss (provided that, if both (i) such amount is added back to EBITDA for the complete one-year period applicable thereto and (ii) not so reimbursed or received by Holdings or such Subsidiary within such one-year period, then such expenses or losses shall be subtracted in the subsequent Reference Period),

(m) expenses required to be reimbursed pursuant to a written contract relating to a facility build-out with an unaffiliated third party lessor, which contract obligation has not been disclaimed, to Holdings or any of its Restricted Subsidiaries,

(n) expenses and costs to the extent the same (i) have been reimbursed in cash by a third party (other than any Credit Party or Restricted Subsidiary), or (ii) are reasonably expected to be reimbursed pursuant to a written escrow agreement or a written indemnification, reimbursement, guaranty or purchase price adjustment agreement (or obligation) with a third party (other than any Credit Party or Restricted Subsidiary) or (iii) are reasonably expected to be covered by insurance to the extent the applicable independent third-party insurer is contractually bound to reimburse and such insurer has not denied coverage therefor;

(o) the amount of cost savings and expenses projected by the Credit Parties to be realized (including synergies) as a result of, or as a result of actions taken, committed to be taken or planned to be taken within eighteen (18) months, pursuant to a factually supported plan as certified by a Responsible Officer of Holdings in connection with any EBITDA Transaction (calculated on a Pro Forma Basis as though such items had been realized on the first day of such Reference Period);

(p) fees and premiums paid in connection with the repayment of Indebtedness on the Closing Date;

(q) fees, costs and expenses incurred in connection with all aspects of the Chapter 11 Cases or directly or indirectly related thereto within twelve (12) months of the Closing Date (including fees and expenses incurred within twelve (12) months of the Closing Date of any consultants); and

(r) to the extent incurred within the first eighteen (18) months after the Closing Date (i) any fees, expenses or charges incurred with respect to accountants in connection with the implementation of fresh start accounting and (ii) any non-cash impact attributable to the adoption of fresh start accounting in connection with the transactions under the Plan of Reorganization, in accordance with GAAP.

"**ECF Percentage**" shall mean, with respect to any Fiscal Year, fifty percent (50%).

"**EEA Financial Institution**" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution

Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"**EEA Member Country**" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"**EEA Resolution Authority**" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"**Employee 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 and subject to Section 4975 of the Code, or (c) any Person whose assets include (for purposes of the Plan Asset Regulations) the assets of any such "employee benefit plan" or "plan."

"**Environmental Laws**" means all present and future Requirements of Law and Permits imposing liability or standards of conduct for or relating to Hazardous Materials or to the regulation and protection of human health from environmental hazards, occupational health and safety, the environment or natural resources, and including public notification requirements and environmental transfer of ownership, notification or approval statutes.

"**Environmental Liabilities**" means all Liabilities (including costs of Remedial Actions, natural resource damages and costs and expenses of investigation and feasibility studies, including the cost of environmental consultants and Attorneys' Costs) that may be imposed on, incurred by or asserted against any Credit Party or any Subsidiary of any Credit Party as a result of, or related to, (a) any claim, suit, action, investigation, proceeding or demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law or otherwise, arising under any Environmental Law, (b) any environmental, health or safety condition or any Release, generation, use, handling, transportation, storage, recycling, treatment of, or exposure to, any Hazardous Materials, (c) any Environmental Law, including any violation thereof or (d) any Contractual Obligations, or other consensual arrangements, to the extent liability is assumed or imposed with respect to any of the foregoing.

"**Equity Issuance**" shall mean any issuance or sale by Holdings (or Topco or any direct or indirect parent of Holdings if the cash proceeds of such Equity Issuance are contributed to Holdings) (or, in lieu thereof, a contribution with respect to the Stock of Holdings (or Topco or any direct or indirect parent of Holdings if the cash proceeds of such contribution are contributed to Holdings)), if the cash proceeds of such Equity Issuance or contribution are contributed to either Borrower or any of their respective Restricted Subsidiaries, as applicable, except in each case for (a) any issuance or sale by any Restricted Subsidiary of Holdings to Holdings or any other Restricted Subsidiary of Holdings, (b) any issuance of directors' qualifying shares, (c) sales or issuances of Qualified Capital Stock of Holdings (or Topco or any direct or indirect parent company) to management or employees of Holdings, either Borrower or any Subsidiary under any employee stock option or stock purchase plan or employee benefit plan in existence from time to time, (d) sales or issuances in connection with any Permitted Acquisition or any other Investment,

(e) sales or issuances, the proceeds of which are used to fund Capital Expenditures, (f) sales or issuances of Qualified Capital Stock of Holdings (or Topco any direct or indirect parent of Holdings if the cash proceeds of such Equity Issuance are contributed to Holdings) to management of Holdings, either Borrower or any of its Subsidiaries and (g) any issuance or sale of Disqualified Capital Stock.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**ERISA Affiliate**" means, collectively, any Credit Party and any Person under common control or treated as a single employer with, any Credit Party, within the meaning of Section 414(b), (c), (m) or (o) of the Code.

"**ERISA Event**" means any of the following: (a) a reportable event described in Section 4043(c) of ERISA (unless the 30-day notice requirement has been duly waived under the applicable regulations) with respect to a Title IV Plan; (b) the withdrawal of any ERISA Affiliate from a Title IV 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; (c) the complete or partial withdrawal of any ERISA Affiliate from any Multiemployer Plan; (d) with respect to any Multiemployer Plan, the filing of a notice of insolvency under Section 4245 of ERISA or termination (or treatment of a plan amendment as termination) under Section 4041A of ERISA; (e) the filing of a notice of intent to terminate a Title IV Plan (or treatment of a plan amendment as termination) under Section 4041 of ERISA; (f) the institution of proceedings to terminate a Title IV Plan or Multiemployer Plan by the PBGC; (g) the failure to make any required contribution to any Title IV Plan or Multiemployer Plan when due; (h) 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 any ERISA Affiliate; (i) the failure of a Benefit Plan or any trust thereunder intended to qualify for tax exempt status under Section 401 or 501 of the Code to qualify thereunder; (j) the failure of any Title IV Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Title IV Plan, whether or not waived, or a Title IV plan being in "at risk" status within the meaning of Section 430 of the Code or Section 303 of ERISA; (k) a Multiemployer Plan being in "endangered status" or "critical status" within the meaning of Section 432 of the Code or Section 305 of ERISA; (l) the existence with respect to any Benefit Plan of a material non-exempt prohibited transaction; (m) the failure of any ERISA Affiliate to pay when due (after expiration of any applicable grace period) any installment payment with respect to withdrawal liability under Section 4201 of ERISA; (n) any other event or condition that might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan or for the imposition of any material liability upon any ERISA Affiliate under Title IV of ERISA other than for PBGC premiums due but not delinquent; or (o) with respect to any Benefit Plan that is not governed by the laws of the United States, (A) the failure to make or, if applicable accrue in accordance with normal accounting practices, any material employer or employee contributions required by applicable law or by the terms of such Benefit Plan; (B) the failure to register or loss of good standing with applicable regulatory authorities of any such Benefit Plan required to be registered; or (C) the failure of any such Benefit Plan to comply with any material provisions of applicable law and regulations or with the material terms of such Benefit Plan.

"**EU Bail-In Legislation Schedule**" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"**Event of Loss**" means, with respect to any Property, any of the following: (a) any loss, destruction or damage of such Property; (b) any pending or threatened institution of any proceedings for the condemnation or seizure of such Property or for the exercise of any right of eminent domain; or (c) any actual condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, of such Property, or confiscation of such Property or the requisition of the use of such Property.

"**Excess Cash Flow**" means, for any Fiscal Year of Holdings,

(a) Cash Flow,

minus, without duplication, the sum of

(i) scheduled or otherwise required principal payments with respect to Indebtedness (including without limitation any repayments or prepayments of Indebtedness outstanding under the Working Capital Facility which are permitted to be made pursuant Sections 5.14(c), (f) and (g)) actually paid in cash,

(ii) Interest Expense actually paid in cash,

(iii) all accrued taxes on or measured by income, profits or capital, including federal, foreign, state, franchise, excise and similar taxes and foreign withholding taxes paid or accrued during such Reference Period (including Tax Distributions), including any penalties and interest relating to any tax examinations, in each case actually paid in cash or for which reserves have been established in accordance with GAAP (provided that such amounts deducted at the time a reserve is established shall not be deducted when actually paid),

(iv) directors' fees and expenses paid or accrued, to the extent permitted to be paid under this Agreement and added back to net income in the determination of EBITDA (and, to the extent deducted when accrued, shall not be deducted when paid in cash),

(v) amounts actually paid in cash (including, but not limited to, acquisition consideration and earnouts) to third parties that are not Affiliates of Holdings or its Subsidiaries in respect of Investments permitted by Section 5.4 for the relevant period to the extent not deducted in the determination of EBITDA for such Fiscal Year and not made with (A) the proceeds of Indebtedness, (B) reinvestment of Net Proceeds, (C) the proceeds of Qualified Capital Stock of Holdings (or any Subsidiary of Holdings to the extent such proceeds are contributed by a Person that is not Holdings or a Subsidiary of Holdings) or (D) the Available Amount,

(vi) fees and expenses (including, but not limited to, losses and charges with respect to earn-out payments) actually paid in cash in connection with EBITDA Transactions for such Fiscal Year to the extent added back to net income in the determination of EBITDA for such Fiscal Year,

(vii) expenses and costs (including but not limited to, litigation and settlement expenses) of the Credit Parties and any Restricted Subsidiary and proceeds of business interruption insurance to the extent added back to net income pursuant to clauses (l) or (n) of the definition of EBITDA and not reimbursed in cash by a third party or so received by Holdings or any Restricted Subsidiary to the extent added back to net income in the determination of EBITDA for such Fiscal Year (provided that when such reimbursement is received, it shall be added to Excess Cash Flow for the Fiscal Year in which received),

(viii) other fees, charges, expenses and losses actually paid in cash in each case to the extent (a) added back to net income in the determination of EBITDA for such Fiscal Year (including, but not limited to any charges, expenses and losses paid pursuant to items (e)(ii)(z), (g), (h), (i), (j), (k) or (q)(ii) in the definition of EBITDA) or (b) excluded from net income in the determination of EBITDA for such Fiscal Year (including, but not limited to any charges or losses under clause (ii) or (iii) in the definition of EBITDA),

(ix) increases in Working Capital for such Fiscal Year,

(x) any expenses required to be reimbursed pursuant to a written contract relating to a facility build-out with an unaffiliated third party lessor, which contract has not been disclaimed, to Holdings or any of its Subsidiaries, to the extent added back to net income in the determination of EBITDA for such Fiscal Year, only to the extent not so reimbursed during such Fiscal Year (the "**Non-Reimbursed Amounts**"),

(xi) the amount of cost savings and expenses projected by the Credit Parties to be realized (including synergies) as a result of actions taken or committed to be taken or planned to be taken within eighteen months, to the extent added back to net income in the determination of EBITDA for such Fiscal Year,

(xii) any charges or expenses paid in cash on account of an item for which a non-cash charge, expense, loss or cost was taken and added back to net income (or excluded from the determination of net income) in the determination of EBITDA in a prior Fiscal Year and

(xiii) any amounts included in EBITDA that are attributable to a Target of, or assets acquired in, a Permitted Acquisition or an Other Investment Acquisition that accrue prior to the closing date of such Permitted Acquisition or such Other Investment Acquisition; provided that the amount of such EBITDA attributable to cash or cash equivalent which remain at a Target after such closing date or are otherwise acquired on such closing date by the acquiring Credit Party or Subsidiary pursuant to such Permitted Acquisition or Other Investment Acquisition (other than cash or cash equivalents acquired to offset an assumed current liability) shall not be deducted pursuant this clause (xv);

(xiv) the aggregate amount of Restricted Payments under Section 5.7(b), (c), (d), (e) or (g) paid to any Person other than Holdings or any Subsidiary during such period, except to the extent financed with (A) the proceeds of Indebtedness, or (B) the proceeds of Qualified Capital Stock of Holdings (or any Subsidiary of Holdings to the extent such proceeds are contributed by a Person that is not Holdings or a Subsidiary of Holdings);

(xv) without duplication of amounts deducted from Excess Cash Flow in prior periods, the aggregate consideration required to be paid in cash by Holdings or any of its Subsidiaries pursuant to binding contracts entered into prior to or during such Fiscal Year with respect to Capital Expenditures, Investments and Restricted Payments to the extent to be consummated within twelve (12) months of the last day of such Fiscal Year; provided that, to the extent the aggregate amount actually expended during such twelve (12) month period is less than the amount calculated in accordance with this clause (xvii), the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such twelve (12) month period;

plus, without duplication,

(b) (i) decreases in Working Capital;

(ii) any Non-Reimbursed Amounts to the extent (A) reimbursed during such Fiscal Year and (B) added back to net income in the determination of EBITDA for a prior Fiscal Year; and

(iii) any other gains received in cash but excluded from net income in the determination of EBITDA for such Fiscal Year.

"**Excluded Property**" shall have the meaning assigned to it in the Guaranty and Security Agreement.

"**Excluded Subsidiary**" means (a) any Restricted Subsidiary that is not a Wholly-Owned Subsidiary, (b) any Foreign Subsidiary or U.S. Foreign Holdco, (c) any Immaterial Subsidiary, (d) any Unrestricted Subsidiary, (e) any not-for-profit Subsidiaries, (f) any Domestic Subsidiary of a Foreign Subsidiary or a U.S. Foreign Holdco, (g) any captive insurance entity, (h) any special purpose entity, (i) any merger Subsidiary formed in connection with a Permitted Acquisition so long as such merger Subsidiary is merged out of existence pursuant to such Permitted Acquisition within sixty (60) days of its formation thereof or such later date as permitted by Agent in its reasonable discretion, (j) any Subsidiary to the extent a Guarantee or other guarantee of the Obligations is prohibited or restricted by applicable law, rule or regulation (including any requirement to obtain consent from a Governmental Authority) or, in the case of any Subsidiary acquired after the Closing Date, by contract (including any requirement to obtain third party consent) existing on the date of (and not incurred in contemplation of) such acquisition or could result in adverse tax consequences (other than de minimis adverse consequences) as reasonably determined by the Borrower Representative, and (k) any Subsidiary to the extent Agent and the Borrowers mutually and reasonably determine the cost and/or burden (including any adverse tax consequences) of obtaining a Guarantee outweigh the benefit to the Lenders.

"**Existing Credit Agreement**" means that certain Credit Agreement, dated as of May 8, 2014, by and among the Borrowers, Bank of America, N.A., as agent, and the other parties thereto, as amended, supplemented or otherwise modified prior to the Closing Date.

"**Facility**" means any Term Loan Facility or Incremental Term Facility.

"**Factoring Facility**" means an arrangement pursuant to which any Borrower or any Subsidiary of any Borrower, as applicable, sells (directly or indirectly) an accounts receivable,

together with any other Receivables Assets related thereto, which accounts receivable may be sold at a market discount (as determined in good faith by such Borrower or such Subsidiary), to a Factoring Subsidiary that in turn funds such purchase by purporting to sell such accounts receivable to a Person that is not a Restricted Subsidiary or by borrowing from such a Person or from another Factoring Subsidiary that in turn funds the related lending by borrowing from such a Person.

"**Factoring Subsidiary**" means any Wholly-Owned Restricted Subsidiary of any Borrower which is designated by the board of directors of such Borrower (as provided below) as a Factoring Subsidiary and engages in no activities other than in connection with facilitating or entering into, one or more Factoring Facilities and in each case engages only in activities reasonably related or incidental thereto and (x) no portion of the Indebtedness or any other obligations (contingent or otherwise) of such Factoring Subsidiary (a) is guaranteed by such Borrower or any of its Restricted Subsidiaries (other than [(i)] a guarantee by any Factoring Subsidiary [or (ii) an unsecured parent guarantee by Holdings or a Restricted Subsidiary and a parent company of a Restricted Subsidiary of obligations of Restricted Subsidiaries][5]), (b) is recourse to or obligates such Borrower or any of its Subsidiaries (other than any Factoring Subsidiary) in any way or (c) subjects any asset of such Borrower or any of its Subsidiaries (other than any Factoring Subsidiary), directly or indirectly, contingently or otherwise, to the satisfaction thereof, and (y) to which neither such Borrower nor any of its Subsidiaries has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results. Any designation by the board of directors of such Borrower shall be evidenced to the Administrative Agent by filing with the Administrative Agent a certified copy of the resolutions of the board of directors of such Borrower giving effect to such designation and a certificate of a Responsible Officer certifying that such designation complied with the foregoing conditions.

"**FATCA**" means Sections 1471 through 1474 of the Code, (and any substantially similar amended version, compliance with which is not materially burdensome) and any regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities entered into in connection with the implementation of the foregoing.

"**Federal Funds Rate**" means, for any day, the rate *per annum* equal to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that 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 quoted to Agent on such day on such transactions as determined by Agent in a commercially reasonable manner.

"**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

[5] NTD: To be discussed.

"**FEMA**" means the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security that administers the National Flood Insurance Program.

"**FIRREA**" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended.

"**First Lien Indebtedness**" means Net Indebtedness that is not subordinated in right of payment to the Initial Term Loans and is secured by a Lien that is *pari passu* with the Liens securing the Term Loans.

"**First Lien Net Leverage Ratio**" means, as at the last day of any Reference Period, the ratio of (a) First Lien Indebtedness on such date to (b) Adjusted EBITDA for such Reference Period.

"**Fiscal Month**" means any of the monthly accounting periods of the Credit Parties ending on the last day of each month, as may be modified in accordance with the terms herein.

"**Fiscal Quarter**" means any of the quarterly accounting periods of the Credit Parties ending on March 31, June 30, September 30 and December 31 of each year, as may be modified in accordance with the terms herein.

"**Fiscal Year**" means any of the annual accounting periods of the Credit Parties ending on December 31 of each year, as may be modified in accordance with the terms herein.

"**Flood Insurance**" means, for any Real Estate located in a Special Flood Hazard Area, federally backed flood insurance available under the National Flood Insurance Program to owners of real property improvements located in Special Flood Hazard Areas in a community participating in the National Flood Insurance Program or private insurance that meets the requirements set forth by FEMA in its *Mandatory Purchase of Flood Insurance Guidelines*. Flood Insurance shall be in an amount equal to the full, unpaid balance of the Loans and any prior liens on the Real Estate up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Agent, with deductibles not to exceed $50,000.

"**Foreign Subsidiary**" means, with respect to any Person, a Subsidiary of such Person, which Subsidiary is not a Domestic Subsidiary.

"**GAAP**" means generally accepted accounting principles in the United States set forth from time to time in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions of comparable stature and authority within the accounting profession), including, without limitation, the FASB Accounting Standards Codification™, which are applicable to the circumstances as of the date of determination, subject to Section 11.3.

"**Governmental Authority**" means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock

or capital ownership or otherwise, by any of the foregoing (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

"**Guarantor**" means any Person that has guaranteed any Obligations.

"**Guaranty and Security Agreement**" means that certain Guaranty and Security Agreement, dated as of even date herewith, in form and substance reasonably acceptable to Agent and the Borrowers, made by the Credit Parties in favor of Agent, for the benefit of the Secured Parties, as the same may be amended, restated and/or modified from time to time.

"**Hazardous Materials**" means any substance, material or waste that is classified, regulated or otherwise characterized under any Environmental Law as hazardous, toxic, a contaminant or a pollutant or by other words of similar meaning or regulatory effect, or for which liability may arise under any Environmental Law, including petroleum or any fraction thereof, asbestos, polychlorinated biphenyls, per- and polyfluoroalkyl substances, 1, 4 dioxane, and radioactive substances.

"**Immaterial Subsidiary**" means a Subsidiary (other than either Borrower) that, as of the relevant date of determination, has been designated by the Borrower Representative as an Immaterial Subsidiary; provided that as of any date of determination, (a) the assets of such Subsidiary and its Subsidiaries (on a consolidated basis and giving effect to intercompany eliminations) shall not exceed 2.50% of Consolidated Total Assets (provided, however, that the assets of such Subsidiary and its Subsidiaries (on a consolidated basis and giving effect to intercompany eliminations) and all other non-Credit Parties designated by the Borrower Representative as Immaterial Subsidiaries on or prior to such date (and their respective Subsidiaries that are non-Credit Parties (on a consolidated basis and giving effect to intercompany eliminations)), do not exceed an amount equal to five percent (5.0%) of the Consolidated Total Assets (giving effect to intercompany eliminations) of Holdings and its Subsidiaries) and (b) the revenues of such Subsidiary and its Subsidiaries (on a consolidated basis and giving effect to intercompany eliminations) for any Fiscal Quarter shall not exceed 2.5% of consolidate revenues of Holdings and its Restricted Subsidiaries for such period (provided, however, that the revenues of such Subsidiary and its Subsidiaries (on a consolidated basis and giving effect to intercompany eliminations) and all other non-Credit Parties designated by the Borrower Representative as Immaterial Subsidiaries on or prior to such date (and their respective Subsidiaries that are non-Credit Parties (on a consolidated basis and giving effect to intercompany eliminations)) for such Fiscal Quarter do not exceed an amount equal to five percent (5.0%) of the consolidated revenues (giving effect to intercompany eliminations) of Holdings and its Subsidiaries for such period). If the Consolidated Total Assets or total revenues of all Restricted Subsidiaries so designated by the Borrowers as "**Immaterial Subsidiaries**" shall at any time exceed the limits set forth in the preceding sentence, then starting with the largest Subsidiary, the number of Subsidiaries that are at such time designated as Immaterial Subsidiaries shall automatically be deemed to no longer be designated as Immaterial Subsidiaries until the threshold amounts in the preceding sentence are no longer exceeded (as reasonably determined by the Borrower Representative), with any Immaterial

Subsidiaries at such time that are below such threshold amounts still being designated as (and remaining as) Immaterial Subsidiaries.

"**Impacted Lender**" means any Lender (i) that fails promptly to provide Agent, upon Agent's reasonable request, reasonably satisfactory assurance that such Lender will not become a Non-Funding Lender, until such Lender provides satisfactory assurance or (ii) that becomes a Distressed Person or who has a Person that directly or indirectly controls such Lender who becomes a Distressed Person, and Agent has reasonably determined that such Lender is reasonably likely to become a Non-Funding Lender. For purposes of this definition, (i) control of a Person shall have the same meaning as in the second sentence of the definition of Affiliate and (ii) "**Distressed Person**" means any Person for which the following has occurred: (a) a voluntary or involuntary case with respect to such Distressed Person has commenced under the Bankruptcy Code or any similar bankruptcy laws of its jurisdiction of formation, (b) a custodian, conservator, receiver or similar official is appointed for such Lender or any substantial part of such Lender's assets, or (c) such Lender makes a general assignment for the benefit of creditors, is liquidated or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Lender or its assets to be, insolvent or bankrupt, and Agent has reasonably determined that such Lender is reasonably likely to become a Non-Funding Lender.

"**Incremental Term Commitment**" means, with respect to each Lender, the commitment, if any, of such Lender to make an Incremental Term Loan under any Incremental Facility Amendment with respect thereto, expressed as an amount representing the maximum principal amount of the Incremental Term Loans to be made by such Lender under such Incremental Facility Amendment, as such commitment may be reduced or increased from time to time pursuant hereto.

"**Indebtedness**" of any Person means, without duplication:

(a) all indebtedness for borrowed money;

(b) all obligations issued, undertaken or assumed as the deferred purchase price of Property or services (other than (i) trade payables entered into in the Ordinary Course of Business, (ii) obligations for the deferred purchase price in connection with Permitted Acquisitions, Other Investment Acquisitions or Acquisitions consummated prior to the Closing Date during such times as there shall be no required cash payments of interest or principal thereunder at any time prior to payment in full of the Obligations in cash and the termination of all Commitments hereunder and (iii) contingent post-closing purchase price adjustments or indemnification payments that may be due in connection with Permitted Acquisitions, Other Investment Acquisitions or Acquisitions consummated prior to the Closing Date (including, but not limited to, (x) customary indemnification obligations and working capital adjustments in connection with any Permitted Acquisition, Other Investment Acquisitions or Acquisitions consummated prior to the Closing Date and (y) any deferred purchase price (whether contingent or non-contingent and including, without limitation, based on the income generated by the assets acquired in such Permitted Acquisition, Other Investment Acquisition or Acquisitions consummated prior to the Closing Date after the consummation thereof) owing to sellers incurred in connection with Permitted Acquisitions, Other Investment Acquisitions or Acquisitions consummated prior to the Closing Date, which Indebtedness under clause (y) is subordinated to the Obligations on terms and conditions reasonably acceptable to Agent));

(c) all unreimbursed amounts drawn under letters of credit issued for the account of such Person and, without duplication, all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments issued by such Person;

(d) all obligations evidenced by notes (excluding notes issued pursuant to or otherwise satisfying the requirements of subclauses (b)(i), (b)(ii) or (b)(iii) of this definition), bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of Property, assets or businesses;

(e) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to Property acquired by the Person (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such Property);

(f) all Capital Lease Obligations;

(g) the principal balance outstanding under any synthetic lease, off-balance sheet loan or similar off balance sheet financing product;

(h) all obligations, whether or not contingent, to purchase, redeem, retire, defease or otherwise acquire for value any of its own Stock or Stock Equivalents (or any Stock or Stock Equivalent of a direct or indirect parent entity thereof) prior to the date that is 180 days after the Term Loan Maturity Date (excluding any provisions requiring redemption upon a "change of control" or similar event; provided that such "change of control" or similar event would result in the prior payment in full of the Obligations, the termination of all commitments to Lenders hereunder and the termination of this Agreement), valued at, in the case of redeemable preferred Stock, the greater of the voluntary liquidation preference and the involuntary liquidation preference of such Stock plus accrued and unpaid dividends;

(i) all indebtedness referred to in clauses (a) through (h) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in Property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness; and

(j) all Contingent Obligations described in clause (a) of the definition thereof in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (i) above. Notwithstanding anything to the contrary contained herein or in any other Loan Document, under no circumstances shall earnouts be deemed to constitute "Indebtedness".

"**Insolvency Proceeding**" means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors; in each case in (a) and (b) above, undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

"**Intellectual Property**" means all rights, title and interests in or relating to intellectual property and industrial property arising under any Requirement of Law and all IP Ancillary Rights relating thereto, including all Copyrights, Patents, Trademarks, Internet Domain Names, Trade Secrets and IP Licenses.

"**Interest Expense**" means, for any Reference Period, total cash interest expense (including that attributable to Capital Lease Obligations) of Holdings and its Subsidiaries for such Reference Period with respect to all outstanding Indebtedness of Holdings and its Subsidiaries (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net costs under Rate Contracts in respect of interest rates to the extent such net costs are allocable to such Reference Period in accordance with GAAP and including any premium, make-whole or penalty payments paid in cash in connection with prepayment of Indebtedness).

"**Interest Payment Date**" means, (a) with respect to any LIBOR Rate Loan (other than a LIBOR Rate Loan having an Interest Period of six (6) months or more) the last day of each Interest Period applicable to such Loan, (b) with respect to any LIBOR Rate Loan having an Interest Period of six (6) months or more, the last day of each three (3) month interval and, without duplication, the last day of such Interest Period, and (c) with respect to Base Rate Loans the last day of each calendar quarter, commencing March 31, 2020.

"**Interest Period**" means, with respect to any LIBOR Rate Loan, the period commencing on the Business Day such Loan is continued or on the Conversion Date on which a Base Rate Loan is converted to the LIBOR Rate Loan and ending on the date one, two, three, six, or, if available to all Lenders, nine or twelve months thereafter, as selected by the Borrower Representative in its Notice of Conversion/Continuation; provided that:

(a) if any Interest Period pertaining to a LIBOR Rate Loan would otherwise end on a day which is not a Business Day, that Interest Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such Interest Period into another calendar month, in which event such Interest Period shall end on the immediately preceding Business Day;

(b) any Interest Period pertaining to a LIBOR 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;

(c) no Interest Period for the Term Loan shall extend beyond the last scheduled payment date therefor; and

(d) no Interest Period applicable to the Term Loan or portion thereof shall extend beyond any date upon which is due any scheduled principal payment in respect of the Term Loan unless the aggregate principal amount of Term Loan represented by Base Rate Loans or by LIBOR Rate Loans having Interest Periods that will expire on or before such date is equal to or in excess of the amount of such principal payment.

"**Intermediate Holdings**" means 4L Technologies Inc., an Illinois corporation.

"**Internet Domain Name**" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to internet domain names.

"**Inventory**" means all of the "inventory" (as such term is defined in the UCC) of Holdings and its Subsidiaries, including, but not limited to, all merchandise, raw materials, parts, supplies, work-in-process and finished goods intended for sale, together with all the containers, packing, packaging, shipping and similar materials related thereto, and including such inventory as is temporarily out of Holdings' or such Subsidiary's custody or possession, including inventory on the premises of others and items in transit.

"**IP Ancillary Rights**" means, with respect to any intellectual property or industrial property, as applicable, all foreign counterparts to, and all divisionals, reversions, continuations, continuations-in-part, reissues, reexaminations, renewals and extensions of, such intellectual property and industrial property and all income, royalties, proceeds and Liabilities at any time due or payable or asserted under or with respect to any of the foregoing or otherwise with respect to such intellectual property and industrial property, including all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any of the foregoing.

"**IP License**" means all Contractual Obligations (and all related IP Ancillary Rights), whether written or oral, granting any right, title and interest in or relating to any intellectual property or industrial property.

"**IRS**" means the Internal Revenue Service of the United States and any successor thereto.

"**Junior Debt**" means debt that is subordinated, unsecured, or secured on a junior basis to, the Obligations.

"**Latest Maturity Date**" means, at any date of determination, the latest maturity date applicable to any Loan or Commitment hereunder at such time.

"**Lender-Related Distress Event**" means, with respect to any Lender or any Person that directly or indirectly controls such Lender, (a) a voluntary or involuntary case, action or proceeding with respect to such Distressed Person under the Bankruptcy Code or any similar bankruptcy laws of its jurisdiction of formation, (b) a custodian, conservator, receiver or similar official is appointed for such Distressed Person or any substantial part of such Distressed Person's assets, (c) such Distressed Person or any Person that directly or indirectly controls such Distressed Person is subject to a forced liquidation, merger, sale or other change of majority control supported in whole or in part by guaranties or other support (including, without limitation, the nationalization or assumption of majority ownership or operating control by) of the U.S. government or other Governmental Authority, or (d) such Distressed Person makes a general assignment for the benefit of creditors or is otherwise subject to composition, marshaling of assets for creditors or other similar arrangement in respect of its creditors generally or a substantial portion of its creditors or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Distressed Person or its assets to be, insolvent or bankrupt. For purposes of this definition, control of a Person shall have the same meaning as in the second sentence of the definition of "Affiliate".

"**Lending Office**" means, with respect to any Lender, the office or offices of such Lender specified as its "**Lending Office**" beneath its name on the applicable signature page hereto, or such other office or offices of such Lender as it may from time to time notify the Borrower Representative and Agent.

"**Liabilities**" means all claims, actions, suits, judgments, damages, losses, liability, obligations, responsibilities, fines, penalties, sanctions, costs, fees, taxes, commissions, charges, disbursements and expenses, in each case of any kind or nature (including interest accrued thereon or as a result thereto and fees, charges and disbursements of financial, legal and other advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

"**LIBOR**" means, for each Interest Period, the offered London Interbank Offered Rate *per annum* for deposits of Dollars for the applicable Interest Period or a comparable or successor rate, which rate is approved by Agent, as published on Reuters Screen LIBOR01 Page (or such other commercially available source providing such quotations as may be designated by Agent from time to time) as of 11:00 a.m. (London, England time) two (2) Business Days prior to the first day in such Interest Period; provided that, with respect to the Term Loan Facility, LIBOR shall not be less than one percent (1.00%) *per annum*. To the extent a comparable or successor rate is approved by Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further, that to the extent such market practice is not administratively feasible for Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by Agent.

"**LIBOR Rate Loan**" means a Loan that bears interest based on LIBOR.

"**Lien**" means any mortgage, deed of trust, pledge, hypothecation, assignment, charge or deposit arrangement, encumbrance, lien (statutory or otherwise) or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including those created by, arising under or evidenced by any conditional sale or other title retention agreement, the interest of a lessor under a Capital Lease, any financing lease having substantially the same economic effect as any of the foregoing, or the filing of any financing statement naming the owner of the asset to which such lien relates as debtor, under the UCC or any comparable law) and any contingent or other agreement to provide any of the foregoing, but not including the interest of a lessor under a lease which is not a Capital Lease.

"**Loan**" means an extension of credit by a Lender to the Borrowers pursuant to Article I, and may be a Base Rate Loan or a LIBOR Rate Loan.

"**Loan Documents**" means this Agreement, the Notes, the Fee Letter, the Collateral Documents and all documents delivered to Agent and/or any Lender in connection with any of the foregoing.

"**Margin Stock**" means "margin stock" as such term is defined in Regulation T, U or X of the Federal Reserve Board.

"**Material Adverse Effect**" means any event, change or condition that, individually or in the aggregate, has had, or could reasonably be expected to have (i) a material adverse effect on the

business, assets, financial condition or results of operations of Holdings and its Restricted Subsidiaries, taken as a whole, (ii) a material adverse effect on the material rights and remedies of Agent under the Loan Documents (other than due to the action or inaction of Agent or any Lender) or (iii) a material adverse effect on the ability of the Borrowers and Guarantors, taken as a whole, to perform their material payment obligations under the Loan Documents.

"**Material Real Estate**" means any owned Real Estate with a book value in excess of $10,000,000.

"**Moody's**" means Moody's Investors Service, Inc. or any successor thereto.

"**Mortgage**" means any deed of trust, mortgage, deed to secure debt, or other document creating a Lien on Material Real Estate or any interest in Material Real Estate.

"**Multiemployer Plan**" means any multiemployer plan, as defined in Section 3(37) or 4001(a)(3) of ERISA, as to which any ERISA Affiliate incurs or otherwise has any obligation or liability, contingent or otherwise.

"**National Flood Insurance Program**" means the program created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as revised by the National Flood Insurance Reform Act of 1994, that mandates the purchase of flood insurance to cover real property improvements located in Special Flood Hazard Areas in participating communities and provides protection to property owners through a Federal insurance program.

"**Net Indebtedness**" means, as of any date of measurement, Total Indebtedness minus the aggregate amount of unrestricted cash and Cash Equivalents of the Credit Parties and their Restricted Subsidiaries on such date.

"**Net Issuance Proceeds**" means, in respect of any issuance of debt or equity, cash proceeds (including cash proceeds as and when received in respect of non-cash proceeds received or receivable in connection with such issuance), net of underwriting discounts and reasonable out-of-pocket costs and expenses paid or incurred in connection therewith in favor of any Person not an Affiliate of a Borrower minus amounts expressly required to be paid in respect of Indebtedness outstanding under the Working Capital Facility.

"**Net Leverage Ratio**" means, as at the last day of any Reference Period, the ratio of (a) Net Indebtedness on such date to (b) Adjusted EBITDA for such Reference Period.

"**Net Proceeds**" means proceeds in cash, checks or other cash equivalent financial instruments (including Cash Equivalents) as and when received by the Person making a Disposition and insurance proceeds or other amounts[6] received on account of an Event of Loss, net of: (a) in the event of a Disposition (i) the direct costs, fees and expenses relating to such Disposition excluding amounts payable to a Borrower or any Affiliate of a Borrower, (ii) sale, use or other transaction taxes paid or payable as a result thereof (and any Tax Distributions), and (iii)

[6] NTD: To be discussed.

amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness secured by a Lien on the asset which is the subject of such Disposition and (iv) reserves for indemnification obligations and purchase price adjustments and (b) in the event of an Event of Loss, (i) all money actually applied to repair or reconstruct the damaged Property or Property affected by the condemnation or taking, (ii) all of the costs, fees and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, and (iii) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments.

"**Non-Core Asset Sale**" shall mean a sale for cash of Property by any Credit Party or Subsidiary of a Credit Party to a Person (other than a Credit Party or any Subsidiary thereof) in accordance with the terms of Section 5.2(q); provided that such Credit Party or Subsidiary is not (in the opinion of the Borrower Representative (acting reasonably)) reliant on such Property to conduct its business as conducted as of the date of such sale.

"**Non-Funding Lender**" means any Lender (a) that has failed to fund any payments required to be made by it under the Loan Documents within two (2) Business Days after any such payment is due, until such time as such Lender funds such payments, (b) that has given oral or written notice to a Borrower, Agent or any Lender or has otherwise publicly announced that such Lender believes it will fail to fund all payments required to be made by it or fund all purchases of participations required to be funded by it under this Agreement and the other Loan Documents or one or more syndicated credit facilities, (c) as to which Agent, after prior notice to the Borrower Representative, has a good faith belief that such Lender or an Affiliate of such Lender is currently in default in fulfilling its obligations (as a lender, agent or letter of credit issuer) under one or more other syndicated credit facilities or (d) with respect to which one or more Lender-Related Distress Events has occurred and is continuing with respect to such Person or any Person that directly or indirectly controls such Lender and Agent has determined that such Lender may become a Non-Funding Lender. For purposes of this definition, control of a Person shall have the same meaning as in the second sentence of the definition of Affiliate.

"**Non-U.S. Lender Party**" means each of Agent, each Lender each SPV and each participant, in each case that is not a United States person as defined in Section 7701(a)(30) of the Code.

"**Note**" means any Term Note and "**Notes**" means all such Notes.

"**Obligations**" means all Loans, and other Indebtedness, advances, debts, liabilities, obligations, covenants and duties owing by any Credit Party to any Lender, Agent, or any other Person required to be indemnified, that arises under any Loan Document, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired.

"**Ordinary Course of Business**" or "**Ordinary Course**" means, in respect of any transaction involving any Person, the ordinary course of such Person's business (subject to

reasonable changes consistent with the growth of such Person) and undertaken by such Person in good faith and not for purposes of evading any covenant or restriction in any Loan Document.

"**Organization Documents**" means, (a) for any corporation, the certificate or articles of incorporation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, and any shareholder rights agreement, (b) for any partnership, the partnership agreement and, if applicable, certificate of limited partnership, or (c) for any limited liability company, the operating agreement and articles or certificate of formation.

"**Other Investment Acquisition**" shall mean the Acquisition of a Target made in reliance on Section 5.4 other than pursuant to "Permitted Acquisition".

"**Patents**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to letters patent and applications therefor.

"**PBGC**" means the United States Pension Benefit Guaranty Corporation any successor thereto."**Permits**" means, with respect to any Person, any permit, approval, authorization, license, registration, notification, exemption, certificate, concession, grant, franchise, variance or permission from, and any other Contractual Obligations with, any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Permitted Acquisition**" means the purchase or other acquisition of property and assets or businesses of any Target or of assets constituting a business unit, a line of business or division of such Target, or Stock in a Target that, upon the consummation thereof, will be a Restricted Subsidiary of a Borrower (including as a result of a merger or consolidation) (or any subsequent Investment made in a Target, division or line of business previously acquired in a Permitted Acquisition); provided that (i) no Event of Default shall have occurred and be continuing as of the date on which the agreement with respect to such acquisition is entered into, (i) any such Target shall not be liable for Indebtedness except Indebtedness permitted hereunder, (ii) after giving effect to any such purchase or other acquisition, the Borrowers shall be in compliance with the covenant in Section 5.8 and (iv) to the extent required by the terms hereof or of the Guaranty and Security Agreement, (A) the property, assets and businesses acquired in such purchase or other acquisition shall become Collateral and (B) any such newly created or acquired Restricted Subsidiary (other than an Excluded Subsidiary) shall become Guarantors; provided*,* however*,* that the Borrowers and their Restricted Subsidiaries shall be permitted to consummate purchases and acquisitions not satisfying this clause (iv) to the extent such Investments do not exceed $7,500,000 in the aggregate (excluding any transaction costs and any amounts funded with the Net Issuance Proceeds from an Equity Issuance) plus the Available Amount plus amounts available under Sections 5.4(b)(ii), 5.4(k) or 5.4(n) (collectively, the "**Non-Credit Party Basket**") (it being agreed and understood that with respect to any purchase or acquisition in which a portion of the acquired-assets or acquired-subsidiaries are attributed to Restricted Subsidiaries that are not Credit Parties (as determined in good faith by the board of directors of the Borrower Representative (a "**Non-Credit Party Investment**")), only the amount of such Non-Credit Party Investment shall be applied against the Non-Credit Party Basket).

"**Permitted Refinancing**" means Indebtedness constituting a refinancing, renewals or extension of Indebtedness permitted hereunder that (a) has an aggregate outstanding principal amount not greater than the aggregate principal amount of the Indebtedness being refinanced, or extended, (b) has a weighted average maturity (measured as of the date of such refinancing or extension) and maturity no shorter than that of the Indebtedness being refinanced, renewed or extended, (c) is not entered into as part of a Sale-Leaseback transaction, (d) is not secured by a Lien on any assets other than the collateral securing the Indebtedness being refinanced or extended, (e) the Indebtedness being refinanced, renewed or extended is not recourse to any Person that is liable on account of such Indebtedness other than those Persons which were obligated to the Indebtedness being refinanced, renewed or extended, (f) to the extent the Indebtedness being refinancing is subordinated, providing for subordination to the Obligations to substantially the same extent and (g) is otherwise on terms not materially more burdensome or restrictive on the Credit Parties, taken as a whole, than those of the Indebtedness being refinanced, renewed or extended.

"**Person**" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture or Governmental Authority.

"**Plan Asset Regulations**" means 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA.

"**Pro Forma Basis**" and "**Pro Forma Compliance**" mean, with respect to compliance with any test or covenant under this Agreement, that all Specified Transactions (including, to the extent applicable, the Transactions, but excluding any dispositions in the ordinary course of business), restructuring or other cost saving actions and the following transactions in connection therewith (if any) shall be deemed to have occurred as of the first day of the applicable period of measurement in such test or covenant: (a) income statement items (whether positive or negative) attributable to the assets or Person subject to such Specified Transaction or restructuring or other cost saving action, (i) in the case of a sale, transfer or other disposition of all or substantially all equity interests in or assets of any Subsidiary of Holdings or any division, business unit, line of business or facility used for operations of Holdings or any of its Subsidiaries (in each case, to a Person other than Holdings or any Subsidiary), shall be excluded, and (ii) in the case of an acquisition or other Investment, shall be included, (b) any retirement, extinguishment or repayment of Indebtedness and (c) any Indebtedness incurred or assumed by Holdings or any of its Subsidiaries in connection with such Specified Transaction or restructuring or other cost saving action (and all Indebtedness so incurred or assumed shall be deemed to have borne interest (x) in the case of fixed rate Indebtedness, at the rate applicable thereto or (y) in the case of floating rate Indebtedness, at the rates which were or would have been applicable thereto during the period when such Indebtedness was or was deemed to be outstanding); provided that EBITDA shall be further adjusted, without duplication of any adjustments to EBITDA set forth in the definition of EBITDA, by, without duplication, adjustments which are (I) in accordance with Regulation S-X or (II) as certified by a Responsible Officer of the Borrower Representative reflecting any net synergies, operating expense reductions and other operating improvements and cost savings (net of the amount of actual benefits realized during such period) directly attributable to (a) any successfully completed Acquisition, Investment or disposition (including the termination or discontinuance of activities constituting such business) of business entities or properties or assets,

constituting a division or line of business of any business entity, division or line of business or facility used for operations of Holdings or any of its Restricted Subsidiaries that is the subject of any such acquisition or disposition, or (b) any other operational change, restructuring or other cost saving action (including, to the extent applicable, from the Transactions) (but excluding any dispositions in the ordinary course of business), so long as such cost savings are reasonably identifiable and factually supportable and having been determined in good faith to be reasonably anticipated to be realizable within eighteen (18) months following any such pro forma event and in the case of clause (b), to the extent not related to an EBITDA Transaction, subject to the related cap in clause (k) of the definition of "EBITDA".

"**Pro Forma EBITDA**" means, with respect to any Target, EBITDA for such Target for the most recent twelve (12) month period preceding the acquisition thereof, adjusted by pro forma adjustments, without duplication of other add-backs otherwise added back in EBITDA, in each case, as if such acquisition, investment, expense reductions (including excess owner compensation), synergies, cost savings, fees, costs or expenses had occurred or been realized at the beginning of the applicable period, certified by a Responsible Officer of the Borrower Representative.

"**Property**" means any interest in any kind of property or asset, whether real, personal or mixed, and whether tangible or intangible.

"**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.

"**Qualified Capital Stock**" means Stock that is not Disqualified Capital Stock.

"**Qualified Factoring Facility**" means any Factoring Facility that meets the following conditions: (a) the board of directors of any Borrower shall have determined in good faith that such Factoring Facility (including financing terms, covenants, termination events or other provisions) is in the aggregate economically fair and reasonable to such Borrower or the applicable Restricted Subsidiary thereof and any Factoring Subsidiary subject thereto; (b) the financing terms, covenants, termination events and other provisions thereof shall be market terms as determined by the Borrowers in good faith; and (c) such arrangements are non-recourse to such Borrower and the Restricted Subsidiaries (other than the related Factoring Subsidiaries) and their assets.

"**Rate Contracts**" means swap agreements (as such term is defined in Section 101 of the Bankruptcy Code) and any other agreements or arrangements designed to provide protection against fluctuations in interest or currency exchange rates.

"**Real Estate**" means any real property owned, leased, subleased or otherwise operated or occupied by any Credit Party or any Subsidiary of any Credit Party.

"**Receivables Assets**" means, with respect to any accounts receivable, all collateral securing such accounts receivable, all contracts and contract rights, guarantees or other obligations in respect of such accounts receivable, all records with respect to such accounts receivable and any other assets customarily transferred together with accounts receivable in connection with an accounts receivable factoring arrangement.

"**Reference Period**" means any period of four (4) consecutive Fiscal Quarters.

"**Related Indemnified Person**" includes, of any Indemnitee (a) any controlling person or controlled affiliate of such Indemnitee, (b) the respective directors, officers or employees of such Indemnitee or any of its controlling persons or controlled affiliates and (c) the respective agents, advisors and professionals of such Indemnitee or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions or request of such Indemnitee, controlling person or controlled affiliate in connection with the transactions contemplated hereunder; provided that each reference to a controlled affiliate or controlling person in this definition pertains to a controlled affiliate or controlling person involved in the negotiation or syndication of this Agreement, the Facilities and the transactions contemplated hereunder.

"**Related Persons**" means, with respect to any Person, each Affiliate of such Person and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisor (including those retained in connection with the satisfaction or attempted satisfaction of any condition set forth in Article II) and other consultants and agents of or to such Person or any of its Affiliates.

"**Releases**" means any release, threatened release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Material into or through the indoor or outdoor environment.

"**Relevant Governmental Body**" means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

"**Remedial Action**" means all actions required to (a) clean up, remove, treat or in any other way address any Hazardous Material in the indoor or outdoor environment, (b) prevent or minimize any Release so that a Hazardous Material does not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment, (c) perform pre remedial studies and investigations and post-remedial monitoring and care with respect to any Hazardous Material or (d) address any violation of any Environmental Law.

"**Required Lenders**" means at any time Lenders then holding more than fifty percent (50%) of the sum of the aggregate unpaid principal balance of the Term Loan then outstanding.

"**Requirement of Law**" means, as to any Person, any law (statutory or common), ordinance, treaty, rule, regulation, order, policy, other legal requirement or determination of an arbitrator or of a Governmental Authority, in each case applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject.

"**Responsible Officer**" means the chief executive officer or the president of a Borrower or the Borrower Representative, as applicable, or any other officer having substantially the same authority and responsibility; or, with respect to compliance with financial covenants or delivery of financial information, the chief financial officer or the treasurer of a Borrower or the Borrower Representative, as applicable, or any other officer having substantially the same authority and responsibility.

"**Restricted Subsidiary**" means each Subsidiary of Holdings that is not designated as an Unrestricted Subsidiary pursuant to Section 4.17 herein. For the avoidance of doubt, the terms "**Subsidiary**" and "**Restricted Subsidiary**" shall have the same meanings herein except as the context otherwise requires.

"**S&P**" means Standard & Poor's Financial Services LLC or any successor thereto.

"**Sale-Leaseback**" means any transaction or series of related transactions pursuant to which the Borrowers or any of their Restricted Subsidiaries (a) sells, transfers or otherwise disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of such transaction, thereafter rents or leases such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or disposed.

"**Secured Party**" means Agent, each Lender, each other Indemnitee and each other holder of any Obligation of a Credit Party.

"**SOFR**" with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator) on the Federal Reserve Bank of New York's website at http://www.newyorkfed.org (or any successor source).

"**SOFR-Based Rate**" means SOFR, Compounded SOFR or Term SOFR.

"**Solvent**" means, with respect to any Person as of any date of determination, that, as of such date, (a) the value of the assets of such Person (both at fair value and present fair saleable value) is greater than the total amount of liabilities (including contingent and unliquidated liabilities) of such Person, (b) such Person is able to pay all liabilities of such Person as such liabilities mature and (c) such Person does not have unreasonably small capital. In computing the amount of contingent or unliquidated liabilities at any time, such liabilities shall be computed at the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"**Special Flood Hazard Area**" means an area that FEMA's current flood maps indicate has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year.

"**Specified Representations**" are those representations and warranties with respect to the Borrowers and the other Credit Parties set forth in Sections 3.1(a), 3.1(b)(ii), Section 3.2, (but solely with respect to the recitals and clause (a) and (c) thereof), Section 3.4 (solely with respect to the Loan Documents), Section 3.8, Section 3.13(a), Section 3.14 (with respect to the Borrowers and their Subsidiaries on a consolidated basis on the applicable closing date of the Incremental Facility), Section 3.20, Section 3.21, Section 3.22 (subject to the limitations or exceptions set forth in any commitment letter entered into in connection with the applicable Incremental Facility) and Section 3.23.

"**Specified Subordinated Debt**" means the Indebtedness listed on Schedule 11.1(d).

"**Specified Transaction**" means (a) any Acquisition or other Investment or the sale, transfer or other disposition of all or substantially all equity interests in or assets of any Subsidiary of Holdings or any division, business unit, line of business or facility used for operations of Holdings or any of its Subsidiaries (in each case, to a Person other than Holdings or any Subsidiary), and (b) any incurrence or retirement, extinguishment or repayment of Indebtedness, Restricted Payment or other event, that by the terms hereof requires Pro Forma Compliance with a test or covenant hereunder or requires such test or covenant to be calculated on a "Pro Forma Basis."

"**SPV**" means any special purpose funding vehicle identified as such in a writing by any Lender to Agent; provided that no special purpose funding vehicle may be affiliated with a Direct Competitor or Disqualified Lender.

"**Stock**" means all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting.

"**Stock Equivalents**" means all securities convertible into or exchangeable for Stock or any other Stock Equivalent and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any Stock or any other Stock Equivalent, whether or not presently convertible, exchangeable or exercisable.

"**Subordinated Indebtedness**" means the Indebtedness of any Credit Party or any Subsidiary of any Credit Party which is subordinated to the Obligations as to right and time of payment and as to other rights and remedies thereunder and having such other terms as are, in each case, reasonably satisfactory to Agent.

"**Subsidiary**" of a Person means any corporation, association, limited liability company, partnership, joint venture or other business entity of which more than fifty percent (50%) of the voting Stock, is owned or controlled directly or indirectly by the Person, or one or more of the Subsidiaries of the Person, or a combination thereof. As used herein and in each other Loan Document, "**Subsidiary**" of Holdings or any Borrower shall exclude any Unrestricted Subsidiary.

"**Target**" means any other Person or business unit or asset group of any other Person acquired or proposed to be acquired in an Acquisition.

"**Tax Affiliate**" means, (a) each Credit Party and its Restricted Subsidiaries and (b) any Affiliate of a Credit party with which such Credit Party files or is required to file tax returns on a consolidated, combined, unitary or similar group basis.

"**Taxes**" means, with respect to any payment made by or on account of any obligation of any Credit Party under any Loan Document, any present or future taxes, levies, imposts, duties, deductions, assessments, fees, charges or withholdings (including backup withholding) and all Liabilities with respect thereto, excluding (i) taxes measured by net income (however denominated, and including branch profits taxes) and franchise taxes imposed in lieu of net income taxes, in each case imposed on any Secured Party as a result of a present or former connection between such Secured Party and the jurisdiction of the Governmental Authority imposing such tax

or any political subdivision or taxing authority thereof or therein (other than such connection arising solely from any Secured Party having executed, delivered or performed its obligations or received a payment 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), (ii) taxes that are directly attributable to the failure (other than as a result of a change in any Requirement of Law) by any Secured Party to deliver the documentation required to be delivered pursuant to Section 10.1(f), (iii) withholding taxes to the extent that the obligation to withhold amounts existed on the date that such Person became a Secured Party under this Agreement (other than pursuant to an assignment request by any Borrower under Section 9.21), except in each case to the extent such Person is a direct or indirect assignee of any other Secured Party that was entitled, at the time the assignment to such Person became effective, to receive additional amounts under Section 10.1(b), and (iv) any taxes imposed under FATCA.

"**Term Loan Facility**" shall mean the commitments in respect of Term Loans and the extensions of credit thereunder.

"**Term Loan Maturity Date**" means the fourth anniversary of the Closing Date.

"**Term Loans**" shall mean, collectively, the Initial Term Loans and, unless the context otherwise requires, any Incremental Term Loans.

"**Term Note**" means a promissory note of the Borrowers payable to a Lender, in substantially the form of Exhibit 11.1(f) hereto, evidencing the Indebtedness of the Borrowers to such Lender resulting from the Term Loan made to the Borrowers by such Lender or its predecessor(s).

"**Term SOFR**" means the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

"**Title IV Plan**" means any employee pension benefit plan (as defined in Section 3(2) of ERISA) subject to Title IV of ERISA, other than a Multiemployer Plan, which is maintained or contributed to by any Credit Party or with respect to which any Credit Party has any obligation or liability, contingent or otherwise (including on account of any ERISA Affiliate).

"**Topco**" means 4L Topco Corporation, a Delaware corporation.[7]

"**Total Indebtedness**" means, as of any date of measurement and without duplication, (a) the aggregate principal amount of all Indebtedness and other obligations, whether current or long-term, for borrowed money (including all Indebtedness hereunder and under the other Loan Documents), (b) purchase money indebtedness and (c) the principal portion of Capital Lease Obligations. Notwithstanding the foregoing, in no event shall the following constitute "Total Indebtedness": (i) obligations under any derivative transaction or other Rate Contract, (ii) operating leases and (iii) letters of credit and bankers' acceptances, except to the extent of unreimbursed drawings thereunder.

[7] NTD: To be discussed.

"**Trade Secrets**" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trade secrets.

"**Trademark**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers and, in each case, all goodwill associated therewith, all registrations and recordations thereof and all applications in connection therewith.

"**Transactions**" has means, collectively, (a) the entry into the Loan Documents, (b) the consummation of the other transactions contemplated by the Plan of Reorganization, and (c) the payment of all fees, costs and expenses associated with the foregoing.

"**UCC**" means the Uniform Commercial Code as in effect from time to time in the State of New York.

"**Unadjusted Benchmark Replacement**" means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

"**Unfinanced Capital Expenditures**" means, for any period, (a) Capital Expenditures minus (b) the portion of Capital Expenditures financed under Capital Leases or other Indebtedness.

"**United States**" and "**U.S.**" each means the United States of America.

"**Unrestricted Additional Term Notes**" means first priority senior secured notes and/or junior lien secured notes and/or unsecured notes, in each case issued pursuant to an indenture, note purchase agreement or other agreement; provided that (a) such Unrestricted Additional Term Notes rank *pari passu* or junior in right of payment and (if secured) of security with the Loans and Commitments hereunder, (b) the Unrestricted Additional Term Notes have a final maturity date that is on or after the Term Loan Maturity Date with respect to the Initial Term Loans and a Weighted Average Life to Maturity equal to or longer than the remaining Weighted Average Life to Maturity of the Initial Term Loans, (c) the covenants and events of default and other terms of which (other than maturity, fees, discounts, interest rate, redemption terms and redemption premiums) shall be consistent with the Initial Term Loans other than as specifically provided in the documentation for the Unrestricted Additional Term Notes, (d) no Subsidiary is a borrower or a guarantor with respect to such Indebtedness unless such Subsidiary is a Credit Party which shall have previously or substantially concurrently guaranteed the Obligations and (e) if such Unrestricted Additional Term Notes are secured, (x) the obligations in respect thereof shall not be secured by liens on the assets of Holdings, the Borrowers or their Subsidiaries, other than assets constituting Collateral, (y) all security therefor shall be granted pursuant to documentation that is not more restrictive than the Collateral Documents in any material respect or, if the Liens are *pari passu* with the Obligations, pursuant to amendments to the Collateral Documents reasonably acceptable to Agent (at the direction of Required Lenders) and a customary intercreditor agreement in form and substance reasonably acceptable to Agent (at the direction of Required Lenders) and the Borrower Representative (it being understood that junior Liens are not required to be *pari passu* with other junior Liens, and that Indebtedness secured by junior Liens may secured by Liens that are *pari passu* with, or junior in priority to, other Liens that are junior to the Liens securing

the Obligations) shall be entered into between Agent and the representative for such Unrestricted Additional Term Notes.

"**Unrestricted Subsidiary**" means any Subsidiary of the Borrowers designated by the board of directors of the Borrower Representative as an Unrestricted Subsidiary pursuant to Section 4.17 on or subsequent to the Closing Date.

"**U.S. Foreign Holdco**" means any Domestic Subsidiary the sole material assets of which are Stock or Stock Equivalents of a Foreign Subsidiary and, if applicable, Indebtedness of a Foreign Subsidiary, and Cash or Cash Equivalents.

"**U.S. Lender Party**" means each of Agent, each Lender, each SPV and each participant, in each case that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"**Weighted Average Life to Maturity**" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

"**Wholly-Owned Subsidiary**" means any Subsidiary in which (other than directors' qualifying shares required by law) one hundred percent (100%) of the Stock and Stock Equivalents, at the time as of which any determination is being made, is owned, beneficially and of record, by any Credit Party, or by one or more of the other Wholly-Owned Subsidiaries, or both.

"**Working Capital**" means, at any date, the excess of Current Assets on such date over Current Liabilities on such date. To the extent Holdings or any of its Subsidiaries consummates a Permitted Acquisition or Other Investment Acquisition during such period, Working Capital shall be calculated on a Pro Forma Basis to include Working Capital acquired in such acquisition as if such Permitted Acquisition or Other Investment Acquisition occurred on the first day of such period. To the extent Holdings or any of its Subsidiaries consummates a Disposition during such period, Working Capital shall be calculated on a Pro Forma Basis to exclude Working Capital disposed of during such period as if such Disposition occurred on the first day of such period.

"**Working Capital Facility**" means a working capital facility incurred by any Borrower and/or any other Credit Party on or after the Closing Date, which facility shall be in form and substance acceptable to the Required Lenders and which may be senior to this Facility in in respect of liens on customary "current assets"; provided that (a) no Subsidiary is a guarantor with respect to such Indebtedness incurred under such facility unless such Subsidiary is a Credit Party which shall have previously or substantially concurrently guaranteed the Obligations, (b) except in respect of deposit accounts and securities accounts, the obligations in respect thereof shall not be secured by liens on the assets of Holdings, the Borrowers or their Subsidiaries, other than assets constituting Collateral, and (c) a customary first lien, second lien intercreditor agreement in form and substance reasonably acceptable to Agent (at the direction of Required Lenders) and the Borrower Representative shall be entered into between Agent and the representative of the providers of such facility.

"**Write-Down and Conversion Powers**" means, 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.

"**Yield**" means, with respect to any Loan, Commitment, or other applicable transaction, as the case may be, on any date of determination as calculated by Agent, (a) any interest rate margin, (b) increases in interest rate floors (but only to the extent that an increase in the interest rate floor with respect to Initial Term Loans, as the case may be, would cause an increase in the interest rate then in effect at the time of determination hereunder, and, in such case, then the interest rate floor (but not the interest rate margin solely for determinations under this clause (b)) applicable to such Initial Term Loans, as the case may be, shall be increased to the extent of such differential between interest rate floors), (c) original issue discount and (d) upfront fees paid to any Person, (with original issue discount and upfront fees being equated to interest based on assumed four-year life to maturity or, if less, the remaining life to maturity), but exclusive of any arrangement, commitment structuring, underwriting or similar fee paid to any Person in connection therewith.

11.2 Other Interpretive Provisions.

(a) Defined Terms. Unless otherwise specified herein or therein, all terms defined in this Agreement or in any other Loan Document shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto. The meanings of defined terms shall be equally applicable to the singular and plural forms of the defined terms. Terms (including uncapitalized terms) not otherwise defined herein and that are defined in the UCC shall have the meanings therein described.

(b) The Agreement. The words "hereof", "herein", "hereunder" and words of similar import when used in this Agreement or any other Loan Document shall refer to this Agreement or such other Loan Document as a whole and not to any particular provision of this Agreement or such other Loan Document; and subsection, section, schedule and exhibit references are to this Agreement or such other Loan Documents unless otherwise specified.

(c) Certain Common Terms. The term "documents" includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced. The term "including" is not limiting and means "including without limitation."

(d) Performance; Time. Whenever any performance obligation hereunder or under any other Loan Document (other than a payment obligation) shall be stated to be due or required to be satisfied on a day other than a Business Day, such performance shall be made or satisfied on the next succeeding Business Day. 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." If any provision of this Agreement or any other Loan Document refers to any action taken or to be taken by any Person, or which such Person is prohibited from taking, such provision shall be interpreted to encompass any and all means, direct or indirect, of taking, or not taking, such action.

(e) Contracts. Unless otherwise expressly provided herein or in any other Loan Document, references to agreements and other contractual instruments, including this Agreement and the other Loan Documents, shall be deemed to include all subsequent amendments, thereto, restatements and substitutions thereof and other modifications and supplements thereto which are in effect from time to time, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document.

(f) Laws. References to any statute or regulation are to be construed as including all statutory and regulatory provisions related thereto or consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

11.3 Accounting Terms and Principles. All accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made in accordance with GAAP. No change in the accounting principles used in the preparation of any financial statement hereafter adopted by Holdings shall be given effect for purposes of measuring compliance with any provision of Article V unless the Borrowers, Agent and the Required Lenders agree to modify such provisions to reflect such changes in GAAP and, unless such provisions are modified, all financial statements, Compliance Certificates and similar documents provided hereunder shall be provided together with a reconciliation between the calculations and amounts set forth therein before and after giving effect to such change in GAAP. 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 in Article V shall be made, without giving effect to any election under Accounting Standards Codification 825-10 (or any other financial accounting standard having a similar result or effect) to value any Indebtedness or other liabilities of any Credit Party or any Subsidiary of any Credit Party at "fair value."

11.4 Payments. Agent may set up standards and procedures to determine or redetermine the equivalent in Dollars of any amount expressed in any currency other than Dollars and otherwise may, but shall not be obligated to, rely on any determination made by any Credit Party. Any such determination or redetermination by Agent shall be conclusive and binding for all purposes, absent manifest error. No determination or redetermination by any Secured Party or any Credit Party and no other currency conversion shall change or release any obligation of any Credit Party or of any Secured Party (other than Agent and its Related Persons) under any Loan Document, each of which agrees to pay separately for any shortfall remaining after any conversion and payment of the amount as converted. Agent may round up or down, and may set up appropriate mechanisms to round up or down, any amount hereunder to nearest higher or lower amounts and may determine reasonable de minimis payment thresholds.

11.5 Division. 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) (each an "**LLC Division**"): (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, (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 and (c) in the event that a Credit Party or any Restricted Subsidiary of a Credit Party or any Restricted Subsidiary thereof that is a limited liability company divides itself into two or more limited liability companies, any limited

liability companies formed as a result of such division shall be required to comply with the obligations set forth in Section 4.12(d) and the other applicable further assurances obligations set forth in the Loan Documents (in each case as if each such resulting limited liability company were a Credit Party or a Restricted Subsidiary of a Credit Party or a Restricted Subsidiary thereof, as applicable), and to become an Additional Guarantor, if required by the terms of this Agreement.

[Signature Pages Follow]

Exhibit D

New Warrant Agreement

This **Exhibit D** contains the New Warrant Agreement. Certain documents, or portions thereof, contained in this **Exhibit D** and the Plan Supplement remain subject to continuing negotiations among the Debtors, the Required Consenting Term Loan Lenders, the Consenting Sponsors, and other interested parties with respect thereto. All parties reserve all rights to amend, revise, or supplement the Plan Supplement, and any of the documents and designations contained herein, at any time before the Effective Date of the Plan, or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court. Each of the documents contained in the Plan Supplement or its amendments are subject to certain consent and approval rights to the extent provided in the Plan or the Restructuring Support Agreement.

WARRANT AGREEMENT

This AGREEMENT, dated as of January [●], 2020 (the "Effective Date"), by and between [4L Holdings Corporation], a Delaware corporation (the "Company"), and American Stock Transfer & Trust Company, LLC, a New York limited liability trust company, as warrant agent (the "Warrant Agent").[1]

WHEREAS, on December 16, 2019 (the "Petition Date"), each of the Company and its Subsidiaries (collectively, the "Debtors") commenced a voluntary case in the Bankruptcy Court for the District of Delaware for relief under chapter 11 of the Bankruptcy Code (the "Chapter 11 Cases"), which cases were jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure under the caption *In re Clover Technologies Group, LLC*, Case No. 19-12680;

WHEREAS, on the Petition Date, the Debtors filed the *Joint Prepackaged Chapter 11 Plan of Reorganization of Clover Technologies Group, LLC and its Debtor Affiliates* (as amended, supplemented or otherwise modified in accordance with the terms thereof, the "Plan") in the Chapter 11 Cases;

WHEREAS, pursuant to the Plan and the authority of the Order Approving the Debtors' Disclosure Statement and Approving the Plan[, on or as soon as practicable after the Effective Date,] the Company will issue or cause to be issued Warrants to purchase, under certain circumstances, up to an aggregate of 500,000 shares of its Common Stock, subject to adjustment as provided herein;[2]

WHEREAS, the Company desires the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing so to act, in connection with the issuance of the Warrants and other matters as provided herein; and

WHEREAS, all acts and things have been done and performed which are necessary to make the Warrants, when issued, the valid, binding and legal obligations of the Company, and to authorize the execution and delivery of this Agreement.[3]

NOW, THEREFORE, in consideration of the foregoing and for the purpose of defining the terms and provisions of the Warrants and the respective rights and obligations thereunder of the Company, the Warrant Agent and Warrantholders, the parties hereto agree as follows:

1. Definitions; Rules of Construction.

1.1. Definitions. As used in this Agreement, the terms set forth below shall have the respective meanings set forth in this Section 1. Capitalized terms used in this Agreement that are not otherwise defined herein will have the respective meanings ascribed thereto in the

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[1] *Note to Draft*: Subject to the continuing review and further comment of the Warrant Agent.

[2] *Note to Draft*: To be conformed (as necessary) based on Plan and Order.

[3] *Note to Draft*: Recitals to be updated (as necessary) based on the reorganization steps taken prior to the Effective Date, if any.

Stockholders' Agreement.

"Agreement" has the meaning set forth in the preamble hereof.

"Appropriate Officer" has the meaning set forth in Section 2.3(c).

"Cashless Exercise" has the meaning set forth in Section 3.7.

"Change-of-Control Transaction" means any merger, consolidation, amalgamation or other similar transaction or series of related transactions to which the Company is a party and pursuant to which the "beneficial owners" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act) of shares of the capital stock of the Company immediately prior to such transaction "beneficially own" less than fifty (50%) of the shares of the capital stock of the surviving entity immediately following such transaction.

"Chapter 11 Cases" has the meaning set forth in the recitals hereto.

"Close of Business" means 5:00 p.m. Eastern time.

"Common Stock" means the common stock, par value $0.01 per share, of the Company.

"Company" has the meaning set forth in the preamble hereof.

"Company Order" means a written request or order signed in the name of the Company by its Chairman or any Co-Chairman of the Board or its Chief Executive Officer, and delivered to the Warrant Agent.

"Company Selected Expert" has the meaning set forth in Section 5.3(c).

"Contract Rate" means [(a) the then-applicable rate per annum at which interest accrues on LIBOR Rate Loans (including any applicable margin spread) under, and as defined in, the Credit Agreement (or any substantially equivalent successor term in any subsequent Credit Agreement described in clause (b) of the definition of Credit Agreement (as defined in the Stockholders' Agreement)), or (y) in the event that LIBOR is not available or not being applied under the Credit Agreement or such subsequent Credit Agreement and a Benchmark Replacement is not in effect thereunder at such time, the then-applicable rate per annum at which interest accrues on Base Rate Loans (including any applicable margin or spread) under, and as each of the foregoing capitalized terms (other than Credit Agreement) in this clause (y) are defined in, the Credit Agreement (or any substantially equivalent term in any subsequent Credit Agreement described in clause (b) of the definition of Credit Agreement (as defined in the Stockholder's Agreement))].

"Corporate Agency Office" has the meaning set forth in Section 8.

"Current Market Price" means on any date the amount which a willing buyer would pay a willing seller in an arm's length transaction on such date (neither being under any compulsion to buy or sell) for one share of the Common Stock as determined as of such date (x) for the purposes of any computation under this Agreement (except under Section 5.2), by an

Independent Financial Expert as set forth in a value report produced by such Independent Financial Expert using one or more valuation methods that such Independent Financial Expert, in its best professional judgment, determines to be most appropriate, in each case, subject and pursuant to the terms and conditions set forth herein, or (y) for the purposes of any computation under Section 5.2, by the Treasurer or Chief Financial Officer of the Company in good faith, whose determination shall be conclusive and evidenced by a certificate of such officer delivered to the Warrant Agent.

"Debtors" has the meaning set forth in the recitals hereof.

"Determinations" has the meaning set forth in Section 5.3(c).

"Effective Date" has the meaning set forth in the preamble hereof.

"Exercise Date" has the meaning set forth in Section 3.2(f).

"Exercise Period" means the period from and including the Original Issue Date to and including the Expiration Date.

"Exercise Price" means, as of any Exercise Date with respect to one (1) outstanding Warrant, the amount, rounded up to two decimal places, equal to $[•][4] , subject to adjustment as provided in Section 5.1, which, in each case, shall be exchangeable for one (1) share of Common Stock; *provided*, that the Exercise Price shall accrete at the Contract Rate, which shall be compounded annually and accrue through the Exercise Date; *provided, further*, that, notwithstanding any adjustment provided in Section 5.1, the Exercise Price shall never be less than $0.01.

"Expiration Date" means January [●], 2025.[5]

"Financial Expert" means any broker or dealer registered as such under the Exchange Act that conducts an investment banking business of nationally recognized standing.

"Independent Financial Expert" means any Financial Expert selected by the Company that either (a) is reasonably acceptable to the Required Warrantholders or (b) is a firm (x) which does not (and whose directors, officers, employees and affiliates, to the knowledge of the Company, do not) have a material direct or indirect financial interest in the Company or any of its Affiliates (other than by virtue of compensation paid for advice or opinions referred to in the exception to clause (z)), as determined by the Board in its reasonable good faith judgment, (y) which has not been, within the last two (2) years, and, at the time it is called upon to give independent financial advice to the Company or any of its Affiliates, is not (and none of whose directors, officers, employees or affiliates, to the knowledge of the Company, is) a promoter,

[4] *Note to Draft*: As each of the following terms are defined in the Restructuring Support Agreement, to be the sum of (i) the principal amount of the Obligations under the Credit Agreement plus accrued interest, minus (ii) the net cash proceeds generated from the Imaging Sale that are used to pay down the Term Loan, minus (iii) the principal amount of the Take-Back Term Loan Facility, minus (iv) 100% of Excess Cash to the extent not distributed to the Lenders in connection with the consummation of the Imaging Sale.

[5] *Note to Draft*: To be five years after the date hereof.

director or officer of the Company or any of its Affiliates or an underwriter with respect to any of the securities of the Company or any of its Affiliates and (z) which does not provide any advice or opinions to the Company or Affiliates except as an independent financial expert in connection with this Agreement.

"Liquidity Event" means: (a) any Change-of-Control Transaction; (b) any transaction or series of related transactions constituting a dividend or distribution of all or substantially all of the Company's assets to the holders of the outstanding equity securities of the Company (a "Substantially All Dividend"); or (c) a sale, transfer or disposition of substantially all the Company's assets to any Person in exchange for consideration that is distributed to the holders of the outstanding equity securities of the Company.

"Liquidity Event Effective Date" means: (a) in case of a Liquidity Event other than a Substantially All Dividend, the date of the consummation of such Liquidity Event; or (b) in the case of a Liquidity Event constituting a Substantially All Dividend, the date for determination of the holders of outstanding equity securities of the Company entitled to receive such Substantially All Dividend.

"Liquidity Event Payment Date" means: (a) in the case of any Liquidity Event other than a Substantially All Dividend, the Liquidity Event Effective Date for such Liquidity Event; or (b) in the case of a Liquidity Event constituting a Substantially All Dividend, the date on which such Substantially All Dividend is paid to the holders of outstanding equity securities of the Company.

"Liquidity Event Proceeds" means the aggregate consideration (including all cash, stock, assets, securities, warrants, options, subscription rights, evidences of indebtedness or assumptions of liabilities or indebtedness or other property) paid or payable to the Company and holders of outstanding equity securities of the Company in connection with (and solely with respect to) the consummation of a Liquidity Event (after deducting expenses paid or payable by the Company in consummating such Liquidity Event). For purposes of the foregoing, the consideration paid or payable in a Liquidity Event shall include the cash, stock, assets, securities, warrants, options, subscription rights, evidences of indebtedness or assumptions of liabilities or indebtedness or other property paid or payable to the Company or holders of shares of equity securities of the Company, in connection with (and solely with respect to) the consummation of such Liquidity Event, regardless of how such consideration is characterized in the definitive documents relating to such Liquidity Event.

"Liquidity Event Trigger Date" means, with respect to any Liquidity Event, the date thirty (30) days before the anticipated Liquidity Event Effective Date.

"Notice Date" has the meaning set forth in Section 5.3(c).

"Open of Business" means 9:00 a.m. Eastern time.

"Original Issue Date" means the Effective Date.

"Petition Date" has the meaning set forth in the recitals hereto.

"Plan" has the meaning set forth in the recitals hereto.

"Property Dividend" means any payment by the Company to holders of outstanding shares of its Common Stock (other than holders of (x) Excluded Shares and any additional shares of Common Stock issuable in respect of such Excluded Shares pursuant to the preemptive rights set forth in the Stockholders' Agreement, (y) shares of Common Stock issued pursuant to any Warrant and, (z) shares of Common Stock issued pursuant to the Management Incentive Plan or any other equity plan, incentive plan or similar arrangement with the Company) of any dividend, or any other distribution by the Company to such holders, of any shares of capital stock of the Company, evidences of indebtedness of the Company, cash or other assets (including rights, warrants or other securities (of the Company or any other Person)), other than any dividend or distribution (x) upon a transaction to which Section 5.1(c) applies, (y) of any shares of Common Stock referred to in Sections 5.1(a) and 5.1(b) or (z) a Substantially All Dividend.

"Property Dividend Per Share Amount" means the quotient of (a) the fair market value of the applicable Property Dividend as determined by an Independent Financial Expert (*provided*, if the applicable Property Dividend consists solely of cash, then the fair market value of such Property Dividend shall be the total amount of cash distributed in connection therewith and not require the engagement of any Independent Financial Expert), *divided* by (b) the total number of outstanding shares of Common Stock held by the holders entitled to receive such Property Dividend.

"Recipient" has the meaning set forth in Section 3.2(e).

"Required Warrantholders" has the meaning set forth in Section 5.3(c).

"Specified Independent Financial Expert" has the meaning set forth in Section 5.3(c).

"Stockholders' Agreement" means that certain Stockholders' Agreement, dated as of the Effective Date, by and among the Company, the holders of outstanding shares of Common Stock and the Warrantholders party thereto.

"Substantially All Dividend" has the meaning set forth in the definition of Liquidity Event.

"Thirty Month Date" means July [●], 2022, the date that is the date thirty (30) months after the Original Issue Date.

"Warrant Agent" has the meaning set forth in the preamble hereof.

"Warrant Certificates" means those certain warrant certificates evidencing the Warrants, substantially in the form of Exhibit A.

"Warrant Exercise Documentation" has the meaning set forth in Section 3.2(c).

"Warrant Register" has the meaning set forth in Section 8.2.

"Warrant Value" means, with respect to an outstanding Warrant, for any Liquidity Event, the fair market value of such Warrant determined as of the Liquidity Event Payment Date for such Liquidity Event, as determined by the Specified Independent Financial Expert, calculated

using the Black-Scholes model for valuing options, subject to the following assumptions: (a) the value of a share of Common Stock used in applying the model shall be determined by reference to the per share value of the consideration that would be distributed or paid in or with respect to each share of Common Stock on a fully-diluted basis at the consummation of the Liquidity Event, (b) the maturity date used in applying the model, will be the Expiration Date, (c) the per share strike price used in applying the model will be the Exercise Price on the date of determination and (d) the volatility factor used in applying the model shall be determined based on historical and implied future volatility of comparable businesses to the Business over the then-remaining period from the date of determination to the Expiration Date; *provided*, that, the volatility factor shall not be greater than twenty-five (25%).

"Warrantholder" means any Person in whose name at the time any Warrant is registered upon the Warrant Register and, when used with respect to any Warrant Certificate, the Person in whose name such Warrant Certificate is registered in the Warrant Register.

"Warrants" means those certain warrants issued hereunder to purchase initially up to an aggregate of 500,000 shares of Common Stock, subject to adjustment pursuant to Section 5, and each warrant shall entitle the Warrantholder thereof to purchase one (1) share of Common Stock.

1.2. Rules of Construction. Unless the context requires otherwise: (a) any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms; (b) references to Sections, Exhibits, paragraphs and clauses refer to Sections, Schedules, Exhibits paragraphs and clauses of this Agreement; (c) the terms "include", "includes", "including" or words of like import shall be deemed to be followed by the words "without limitation"; (d) the terms "hereof", "herein" or "hereunder" refer to this Agreement as a whole and not to any particular provision of this Agreement; (e) the term "or" is not exclusive and shall have the inclusive meaning of "and/or"; (f) defined terms herein will apply equally to both the singular and plural forms and derivative forms of defined terms will have correlative meanings; (g) references to any law or statute shall be deemed to refer to such law or statute as amended or supplemented from time to time and shall include all rules and regulations and forms promulgated thereunder, and references to any law, rule, form or statute shall be construed as including any legal and statutory provisions, rules or forms consolidating, amending, succeeding or replacing the applicable law, rule, form or statute; (h) references to any Person include such Person and their respective heirs, executors, administrators, successors, legal representatives and permitted assigns; (i) references to "days" are to calendar days unless otherwise indicated; (j) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded; (k) references to "writing" or "written" shall include electronic mail; and (l) all references to $, currency, monetary values and dollars set forth herein shall mean United States dollars.

2. **Warrant Certificates.**

2.1. Issuance of Warrants. At the Company's option, each Warrant Certificate shall evidence the number of Warrants specified therein and either be (x) represented by physical certificates or (y) issued by electronic entry registration on the books of the Warrant Agent, and each Warrant evidenced thereby shall represent the right, subject to the provisions contained

herein and therein, to purchase one (1) share of Common Stock, subject to adjustment as provided in Section 5.[6]

2.2. Form of Warrant Certificates. The Warrant Certificates evidencing the Warrants shall be substantially in the form of Exhibit A, shall be dated the date on which countersigned by the Warrant Agent, shall have such insertions, omissions, substitutions and other variations as are appropriate or required or permitted by this Agreement, and may have such letters, numbers or other marks of identification and such legends, summaries, or endorsements typed, stamped, printed, lithographed or engraved thereon as the officers of the Company executing the same may approve (execution thereof to be conclusive evidence of such approval) and as are not inconsistent with the provisions of this Agreement, or as may be required to comply with any law or with any rule or regulation pursuant thereto or with any rule or regulation of any securities exchange on which the Warrants may be listed, or to conform to usage.

2.3. Execution and Delivery of Warrant Certificates.

(d) Warrant Certificates evidencing the Warrants which may be countersigned and delivered under this Agreement are limited to Warrant Certificates evidencing the Warrants, except for Warrant Certificates countersigned and delivered upon registration of transfer of, or in exchange for, or in lieu of, one or more previously countersigned Warrant Certificates pursuant to Sections 3.2(d), 6 and 8.

(e) At any time and from time to time on or after the date of this Agreement, Warrant Certificates evidencing the Warrants may be executed by the Company and delivered to the Warrant Agent for countersignature, and the Warrant Agent shall, upon receipt of a Company Order and at the direction of the Company set forth therein, countersign and deliver such Warrant Certificates to the Company for original issuance to the respective Persons entitled thereto. The Warrant Agent is further hereby authorized to countersign and deliver Warrant Certificates as required by this Section 2.3 or by Sections 2.2, 3.2(d), 6 or 8.

(f) The Warrant Certificates shall be executed in the corporate name and on behalf of the Company by the Chairman (or any Co-Chairman) of the Board or the Chief Executive Officer(each, an "Appropriate Officer") and attested to by the Secretary or one of the Assistant Secretaries of the Company, either manually or by facsimile or electronic signature printed thereon. The Warrant Certificates shall be manually countersigned by the Warrant Agent and shall not be valid for any purpose unless so countersigned. In case any officer of the Company whose signature shall have been placed upon any of the Warrant Certificates shall cease to be such officer of the Company before countersignature by the Warrant Agent and issue and delivery thereof, such Warrant Certificates may, nevertheless, be countersigned by the Warrant Agent and issued and delivered with the same force and effect as though such person had not ceased to be such officer of the Company, and any Warrant Certificate may be signed on behalf of the Company by such person as, at the actual date of the execution of such Warrant Certificate, shall be a proper officer of the Company, although at the date of the execution of this Warrant Agreement any such person was not such officer.

[6] *Note to Draft*: To be updated (as necessary) based on the reorganization steps taken prior to the Effective Date, if any.

2.4. Withholding and Reporting Requirements. The Company shall comply with all applicable tax withholding and reporting requirements imposed by any governmental unit, and all distributions or other situations requiring withholding under applicable law, including deemed distributions, pursuant to the Warrants will be subject to applicable withholding and reporting requirements. Notwithstanding any provision to the contrary, the Company will be authorized to (i) take any actions that may be necessary or appropriate to comply with such withholding and reporting requirements, (ii) apply a portion of any cash distribution to be made under the Warrants to pay applicable withholding taxes, (iii) liquidate a portion of any non-cash distribution to be made under the Warrants to generate sufficient funds to pay applicable withholding taxes, (iv) require reimbursement from any Holder of Warrants to the extent any withholding is required in the absence of any distribution or (v) establish any other mechanisms the Company believes are reasonable and appropriate, including requiring Holders to submit appropriate tax and withholding certifications (such as IRS Forms W-9 and the appropriate IRS Forms W-8, as applicable) that are necessary to comply with this Section 2.4.

3. **Exercise and Expiration of Warrants.**

3.1. Right to Acquire Common Stock Upon Exercise. Each Warrant Certificate shall, when countersigned by the Warrant Agent, entitle the Holder thereof, subject to the provisions thereof and of this Agreement, to acquire from the Company, for each Warrant evidenced thereby one share of Common Stock at the Exercise Price, subject to adjustment as provided in this Agreement. The Exercise Price, and the number of shares of Common Stock obtainable upon exercise of each Warrant, shall be adjusted from time to time as required by Section 5.1.

3.2. Exercise and Expiration of Warrants.

(a) Exercise of Warrants. Subject to and upon compliance with the terms and conditions set forth herein, a Warrantholder may exercise all or any whole number of the Warrants evidenced thereby, on any Business Day from and after the Original Issue Date until Close of Business on the Expiration Date, for the shares of Common Stock obtainable thereunder.

(b) Expiration of Warrants. The Warrants shall terminate and become void as of Close of Business, on the Expiration Date.

(c) Method of Exercise. In order to exercise all or any of the Warrants represented by a Warrant Certificate, the Warrantholder thereof must (i) at the Corporate Agency Office (x) surrender to the Warrant Agent the Warrant Certificate evidencing such Warrants, and (y) deliver to the Warrant Agent a written notice of the Warrantholder's election to exercise the number of Warrants specified therein, duly executed by such Warrantholder, which notice shall be in the form of the notice on the reverse of, or attached to, such Warrant Certificate and (ii) except in the case of a Cashless Exercise, at the option of the Warrantholder, pay to the Warrant Agent an amount, equal to the product of (A) the Exercise Price and (B) the total number of shares of Common Stock into which such Warrants are exercisable, in any combination of the following elected by such Holder: (A) certified bank check or official bank check in New York Clearing House funds payable to the order of the Company and delivered to the Warrant Agent at the Corporate Agency Office (*provided*, that the Warrant Agent hereby covenants to deposit any

such check received into an account specified in writing by the Company to the Warrant Agent), or (B) wire transfer in immediately available funds to an account specified in writing by the Company to the Warrant Agent and such Warrantholder in accordance with Section 11.1(b) (such payment, together with the Warrant Certificate and the written notice of the Holder's election, the "Warrant Exercise Documentation").

(d) Partial Exercise. If fewer than all the Warrants represented by a Warrant Certificate are exercised, such Warrant Certificate shall be surrendered and a new Warrant Certificate of the same tenor and for the number of Warrants which were not exercised shall be executed by the Company. The Warrant Agent shall countersign the new Warrant Certificate, registered in such name or names, subject to the provisions of Section 8 regarding registration of transfer and payment of governmental charges in respect thereof, as may be directed in writing by the Holder, and shall deliver the new Warrant Certificate to the Person or Persons in whose name such new Warrant Certificate is so registered. The Company, whenever required by the Warrant Agent, will supply the Warrant Agent with Warrant certificates duly executed on behalf of the Company for such purpose.

(e) Issuance of Common Stock. The Company shall, as promptly as practicable after the Exercise Date, and in any event within five Business Days after the receipt of all Warrant Exercise Documentation, execute or cause to be executed and deliver or cause to be delivered to the Recipient (as defined below) a certificate or certificates representing the aggregate number of shares of Common Stock issuable upon such exercise (based upon the aggregate number of Warrants so exercised), determined in accordance with Section 3.6, together with an amount in cash in lieu of any fractional share(s), if the Company so elects pursuant to Section 5.2. The certificate or certificates so delivered shall be, to the extent reasonably practicable, in such denomination or denominations as such Holder shall request in such notice of exercise and shall be registered or otherwise placed in the name of, and delivered to, the Holder or, subject to Section 2.3(c) and Section 3.4, such other Person as shall be designated by the Holder in such notice (the Holder or such other Person being referred to herein as the "Recipient").

(f) Time of Exercise. Each exercise of a Warrant shall be deemed to have been effected immediately prior to the close of business on the first day on which each of the following has occurred (the "Exercise Date"): (i) the Warrant Certificate representing such Warrant has been surrendered for exercise and the notice of exercise has been duly executed by the Holder and delivered to the Company as provided in Section 3.2(c), (ii) except in the case of a Cashless Exercise, the Company has been paid an amount equal to the aggregate of the applicable Exercise Price in respect of each share of Common Stock into which such Warrants are exercisable as provided in Section 3.2(c), and (iii) all taxes required to be paid by Holder, if any, pursuant to Section 3.4 prior to the exercise of such Warrant have been paid. On the Exercise Date, subject to Section 5.1(f)(iv), the certificates for the shares of Common Stock issuable upon such exercise as provided in Section 3.2(e) shall be deemed to have been issued and, for all purposes of this Agreement, the Recipient shall, as between such Person and the Company, be deemed to be and entitled to all rights of the holder or record of such Common Stock.

3.3. Application of Funds Upon Exercise of Warrants. Any funds delivered to the

Warrant Agent upon exercise of any Warrant(s) shall be held by the Warrant Agent in trust for the Company. The Warrant Agent shall promptly deliver and pay to or upon the written order of the Company all funds received by it upon the exercise of any Warrants by bank wire transfer to an account designated by the Company or as the Warrant Agent otherwise may be directed in writing by the Company.

3.4. Payment of Taxes. The Company shall pay any and all taxes (other than income taxes) that are payable in respect of the issue or delivery of shares of Common Stock on exercise of Warrants pursuant hereto. The Company shall not be required, however, to pay any tax or other charge imposed in respect of any transfer involved in the issue and delivery of any certificates for shares of Common Stock or payment of cash or other property to any Recipient other than the Holder of the Warrant Certificate surrendered upon the exercise of a Warrant, and in case of such transfer or payment, the Warrant Agent and the Company shall not be required to issue or deliver any certificate or pay any cash until (a) such tax or charge has been paid or an amount sufficient for the payment thereof has been delivered to the Warrant Agent or the Company or (b) it has been established to the Company's reasonable satisfaction that any such tax or other charge that is or may become due has been paid.

3.5. Surrender of Certificates. Any Warrant Certificate surrendered for exercise shall, if surrendered to the Company, be delivered to the Warrant Agent, and all Warrant Certificates surrendered or so delivered to the Warrant Agent shall be promptly cancelled by the Warrant Agent and shall not be reissued by the Company. The Warrant Agent shall destroy such cancelled Warrant Certificates and deliver its certificate of destruction to the Company, unless the Company shall otherwise direct.

3.6. Shares Issuable. The number of shares of Common Stock "obtainable upon exercise" of Warrants at any time shall be the number of shares of Common Stock into which such Warrants are then exercisable. The number of shares of Common Stock "into which each Warrant is exercisable" shall be one share, subject to adjustment as provided in Section 5.1.

3.7. Cashless Exercise. Notwithstanding any provisions herein to the contrary, in lieu of paying to the Company the applicable Exercise Price in accordance with Section 3.2(c), the Warrantholder may elect to receive shares of Common Stock equal to the value (as determined below) of the Warrants (or the portion thereof being exercised) by expressly stating in its notice of exercise that the Warrantholder desires to effect a "cashless exercise" (a "Cashless Exercise") in which event the Company shall issue to the Warrantholder a number of shares of Common Stock computed using the following formula:

$$X = (Y\ (A\text{-}B)) \div A$$

where $X =$ the number of shares of Common Stock to be issued to the Warrantholder

$Y =$ the number of Warrant Shares represented by the Warrants held by such Warrantholder or, if only a portion of the Warrants are being exercised, the portion of the Warrant Shares as to which this Warrant is being exercised (on the Exercise Date)

$A =$ the applicable Current Market Price of one share of Common Stock (on

the Exercise Date)

B = the applicable Exercise Price (as adjusted through and including the Exercise Date).

4. **Dissolution, Liquidation or Winding-Up.**

If, on or prior to the Expiration Date, the Company (or any other Person controlling the Company) shall propose a voluntary dissolution, liquidation or winding up of the affairs of the Company, the Company shall give written notice thereof to all Warrantholders in the manner and within the time period provided in Section 11.1(b). Each Warrantholder shall receive the securities, cash or other property which such Holder would have been entitled to receive as if a Liquidity Event had occurred and the rights to exercise the Warrants shall terminate on the date specified in such notice as the date on which the holders of record of the shares of Common Stock shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such dissolution, liquidation or winding up, as the case may be.

In case of any such voluntary dissolution, liquidation or winding up of the Company, the Company shall deposit with the Warrant Agent any funds or other property which the Warrantholders are entitled to receive under this Agreement, together with a Company Order as to the distribution thereof. After receipt of such deposit from the Company and after receipt of surrendered Warrant Certificates evidencing Warrants, the Warrant Agent shall make payment in appropriate amount to such Person or Persons as it may be directed in writing by the Warrantholder. The Warrant Agent shall not be required to pay interest on any money deposited pursuant to the provisions of this Section 4 except such as it shall agree with the Company to pay thereon. Any moneys, securities or other property which at any time shall be deposited by the Company or on its behalf with the Warrant Agent pursuant to this Section 4 shall be, and are hereby, assigned, transferred and set over to the Warrant Agent in trust for the purpose for which such moneys, securities or other property shall have been deposited; provided that moneys, securities or other property need not be segregated from other funds, securities or other property held by the Warrant Agent except to the extent required by law.

5. **Adjustments.**

5.1. Adjustments. In order to prevent dilution of the rights granted under the Warrants, the Exercise Price shall be subject to adjustment from time to time as provided in this Section 5.1 and the number of shares of Common Stock obtainable upon exercise of the Warrants shall be subject to adjustment from time to time as provided in this Section 5.1 (in each case, after taking into consideration any prior adjustments pursuant to this Section 5.1).

(a) Subdivisions and Combinations. In the event the Company shall, at any time or from time to time after the Original Issue Date while the Warrants remain outstanding and unexpired in whole or in part, effect a subdivision (by any stock split or otherwise) of the outstanding shares of Common Stock into a greater number of shares of Common Stock (other than (x) a stock split effected by means of a stock dividend or stock distribution to which Section 5.1(b) applies or (y) a subdivision upon a transaction to which Section 5.1(c) applies), then and in each such event the Exercise Price in effect at the Opening of Business on the day

after the date upon which such subdivision becomes effective shall be proportionately decreased. Conversely, if the Company shall, at any time or from time to time after the Original Issue Date while the Warrants remain outstanding and unexpired in whole or in part effect a combination (by any reverse stock split or otherwise) of the outstanding shares of Common Stock into a smaller number of shares of Common Stock (other than a combination upon a transaction to which Section 5.1(c) applies), then and in each such event the Exercise Price in effect at the Opening of Business on the day after the date upon which such combination becomes effective shall be proportionately increased. Any adjustment under this Section 5.1(a) shall become effective immediately after the opening of business on the day after the date upon which the subdivision or combination becomes effective.

(b) Common Stock Dividends. In the event the Company shall, at any time or from time to time after the Original Issue Date while the Warrants remain outstanding and unexpired in whole or in part, make or issue to the holders of its outstanding shares of Common Stock a dividend or distribution payable in, or otherwise make or issue a dividend or other distribution on any class of its capital stock payable in, shares of Common Stock (other than a dividend or distribution upon a transaction to which Section 5.1(c) applies), then and in each such event the Exercise Price in effect at the Opening of Business on the day after the date for the determination of the holders of outstanding shares of Common Stock entitled to receive such dividend or distribution shall be decreased by multiplying such Exercise Price by a fraction (not to be greater than 1) (i) the numerator of which shall be the total number of shares of Common Stock issued and outstanding at the Close of Business on such date for determination and (ii) the denominator of which shall be the number of shares of Common Stock issued and outstanding at the close of business on such date for determination plus the number of shares of Common Stock issuable in payment of such dividend or distribution. Any adjustment under this Section 5.1(b) shall become effective immediately after the Opening of Business on the day after the date for the determination of the holders of outstanding shares of Common Stock entitled to receive such dividend or distribution.

(c) Reorganizations, Reclassifications or Recapitalizations. Subject to Section 5.3, in the event of any (i) capital reorganization of the Company, (ii) reclassification of the Common Stock of the Company (including a change in par value or from par value to no par value or from no par value to par value, but excluding a reclassification consisting of solely (x) a stock dividend or distribution of solely shares of Common Stock to which Section 5.1(b) applies or (y) a subdivision or combination of solely shares of Common Stock to which Section 5.1(a) applies), (iii) consolidation or merger or amalgamation of the Company with or into another Person or of another Person into the Company, (iv) the sale, transfer or other disposition of all or substantially all of the Company's assets to any other Person, or (v) other similar transaction, in each case pursuant to which the holders of Common Stock receive (either directly or upon subsequent liquidation) cash, stock, assets, securities, warrants, options, subscription rights, evidences of indebtedness or assumptions of liabilities or indebtedness or other property, in each case whether of the Company or any other Person, in lieu of or in exchange for or upon change or conversion of Common Stock (other than in cases of clauses (i) through (v), a Liquidity Event), the Warrants shall, immediately after such reorganization, reclassification, consolidation, merger, amalgamation, sale, transfer, disposition or similar transaction, subject to Section 5.3, remain outstanding and shall thereafter, in lieu of the number of shares of Common Stock then issuable upon exercise of the Warrants, be exercisable for the kind and number of cash, stock,

assets, securities, warrants, options, subscription rights, evidences of indebtedness or assumptions of liabilities or indebtedness or other property resulting from such transaction to which the Warrantholders would have received upon such reorganization, reclassification, consolidation, merger, sale or similar transaction if the Holders had exercised the Warrants in full immediately prior to the time of such reorganization, reclassification, consolidation, merger, amalgamations, sale, transfer, disposition or similar transaction and acquired the applicable number of shares of Common Stock then issuable upon exercise of the Warrants as a result of such exercise (without taking into account any limitations or restrictions on the exercisability of the Warrants), and, in such case, the Company shall (or shall cause any such other Person) to enter into a supplemental agreement, executed and delivered to the Warrant Agent, in form reasonably satisfactory to the Warrant Agent, providing for appropriate adjustment (in form and substance reasonably satisfactory to the Holders) with respect to the Holders' rights under the Warrants to insure that the provisions of this Agreement (including Sections 5 and 9 hereof) shall thereafter be applicable, as nearly as possible, to the Warrants in relation to any cash, stock, assets, securities, warrants, options, subscription rights, evidences of indebtedness or assumptions of liabilities or indebtedness or other property thereafter acquirable upon exercise of the Warrants. The provisions of this Section 5.1(c) shall similarly apply to successive reorganizations, reclassifications, consolidations, mergers, amalgamations, sales, transfers, dispositions or similar transactions.

(d) Property Dividends. In the event the Company shall, at any time or from time to time after the Original Issue Date while the Warrants remain outstanding and unexpired in whole or in part, make or issue a a Property Dividend, then and in each such event the Exercise Price in effect immediately prior to the Close of Business on the date for the determination of the holders of outstanding shares of Common Stock entitled to receive such Property Dividend shall be decreased by the Property Dividend Per Share Amount as of the record date for such distribution of such Property Dividend so distributed. Any adjustment under this Section 5.1(d) shall become effective immediately prior to the Opening of Business on the day after the date for the determination of the holders of Common Stock entitled to receive such dividend or distribution.

(e) Common Stock Issuances. Other than shares of Common Stock issued (i) in connection with (x) any dividend or distribution on shares of preferred stock of the Company, if any, or (y) stock split, stock dividend, reorganization or recapitalization applicable to all shares of Common Stock, or (ii) to officers and/or employees of the Company and/or its Subsidiaries pursuant to of any equity plan, incentive plan or similar arrangement, if the Company issues shares of Common Stock for a consideration per share less than the lesser of (A) the Current Market Price and (B) the Exercise Price, in each case, on the date the Company fixes the offering price of such additional shares, the Exercise Price shall be decreased in accordance with the following formula:

$$E' = E - ((P \times A) \div O)$$

where E' = the adjusted Exercise Price immediately following the discounted issuance to which this Section 5.1(e) applies

E = the Exercise Price immediately prior to the discounted issuance to which

this Section 5.1(e) applies

O = the number of shares of Common Stock outstanding immediately following the discounted issuance to which this Section 5.1(e) applies

P = the sum of (x) the lesser of (x) the Current Market Price and (y) the Exercise Price, *minus* (y) the price per share of Common Stock paid in connection with such issuance

A = the number of shares of Common Stock issued in connection with the discounted issuance to which this Section 5.1(e) applies

This Section 5.1(e) does not apply to (i) any of the transactions described in Sections 5.1(a), 5.1(b), 5.1(c) and 5.1(d), (ii) the exercise of the Warrants, and (iii) shares of Common Stock issued pursuant to, or upon the exercise of awards granted pursuant to, employee benefit plans of the Company.

(f) Other Provisions Applicable to Adjustments. The following provisions shall be applicable to the making of adjustments to the Exercise Price and the number of shares of Common Stock into which each Warrant is exercisable under this Section 5.1:

(i) Treasury Stock. The dividend or distribution of any issued shares of Common Stock owned or held by or for the account of the Company shall be deemed a dividend or distribution of shares of Common Stock for purposes of this Section 5.1. The Company shall not make or issue any dividend or distribution on shares of Common Stock held in the treasury of the Company. For the purposes of this Section 5.1, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(ii) When Adjustments Are to be Made. The adjustments required by Sections 5.1(a), 5.1(b), 5.1(c), 5.1(d) and 5.1(e) shall be made whenever and as often as any specified event requiring an adjustment shall occur.

(iii) Fractional Interests. In computing adjustments under this Section 5, fractional interests in Common Stock shall be taken into account to the nearest one-thousandth of a share.

(iv) Deferral Of Issuance Upon Exercise. In any case in which this Section 5.1 shall require that a decrease in the Exercise Price be made effective prior to the occurrence of a specified event and any Warrant is exercised after the time at which the adjustment became effective but prior to the occurrence of such specified event and, in connection therewith, Section 5.1(g) shall require a corresponding increase in the number of shares of Common Stock into which each Warrant is exercisable, the Company may elect to defer until the occurrence of such specified event (A) the issuance to the Holder of the Warrant Certificate evidencing such Warrant (or other Person entitled thereto) of, and the registration of such Holder (or other Person) as the record holder of, the Common Stock over and above the Common Stock issuable upon such

exercise on the basis of the number of shares of Common Stock obtainable upon exercise of such Warrant immediately prior to such adjustment and to require payment in respect of such number of shares the issuance of which is not deferred on the basis of the Exercise Price in effect immediately prior to such adjustment and (B) the corresponding reduction in the Exercise Price; provided, however, that the Company shall deliver to such Holder or other person a due bill or other appropriate instrument that meets any applicable requirements of the principal national securities exchange or other market on which the Common Stock is then traded, if applicable, and evidences the right of such Holder or other Person to receive, and to become the record holder of, such additional shares of Common Stock, upon the occurrence of such specified event requiring such adjustment (without payment of any additional Exercise Price in respect of such additional shares).

(g) Adjustment to Shares Obtainable Upon Exercise. Whenever the Exercise Price is adjusted as provided in Sections 5.1(a), 5.1(b) or 5.1(c), the number of shares of Common Stock into which a Warrant is exercisable shall simultaneously be adjusted by multiplying such number of shares of Common Stock into which a Warrant is exercisable immediately prior to such adjustment by a fraction, the numerator of which shall be the Exercise Price immediately prior to such adjustment, and the denominator of which shall be the Exercise Price immediately thereafter.

(h) Compliance with Governmental Requirements. Before taking any action that would cause an adjustment reducing the Exercise Price below the then par value of any of the shares of Common Stock into which the Warrants are exercisable, the Company will take any corporate action that may be necessary in order that the Company may validly and legally issue fully paid and non-assessable shares of such Common Stock at such adjusted Exercise Price.

(i) Optional Adjustments. The Company may at its option, at any time during the term of the Warrants, increase the number of shares of Common Stock into which each Warrant is exercisable, or decrease the Exercise Price, in addition to those changes required by this Section 5.1 as deemed advisable by the Board (x) if the Board determines that an event or transaction has occurred that adversely affects the rights of the Holders that did not otherwise require an adjustment pursuant to this Section 5.1 and to which Section 5.3 does not apply or (y) in order that any event treated for U.S. federal income tax purposes as a dividend of stock or stock rights shall not be taxable to the recipients.

(j) Notice of Adjustment. Upon the occurrence of each adjustment of the Exercise Price or the number of shares of Common Stock into which a Warrant is exercisable pursuant to this Section 5.1, the Company at its expense shall promptly:

(i) compute such adjustment in accordance with the terms hereof;

(ii) after such adjustment becomes effective, deliver to all Holders in accordance with Section 11.1(b) a notice setting forth such adjustment (including the kind and amount of securities, cash or other property for which the Warrants shall be exercisable and the Exercise Price) and showing in detail the facts upon which such adjustment is based; and

(iii) deliver to the Warrant Agent a certificate of the Treasurer of the Company setting forth the Exercise Price and the number of shares of Common Stock into which each Warrant is exercisable after such adjustment and setting forth a brief statement of the facts requiring such adjustment and the computation by which such adjustment was made (including a description of the basis on which the fair market value of any evidences of indebtedness, shares of capital stock, securities, cash or other assets or consideration used in the computation was determined). As provided in Section 10.1, the Warrant Agent shall be entitled to rely on such certificate and shall be under no duty or responsibility with respect to any such certificate, except to exhibit the same from time to time to any Holder desiring an inspection thereof during reasonable business hours.

(k) Statement on Warrant Certificates. Irrespective of any adjustment in the Exercise Price or amount or kind of shares into which the Warrants are exercisable, Warrant Certificates theretofore or thereafter issued may continue to express the same Exercise Price initially applicable or amount or kind of shares initially issuable upon exercise of the Warrants evidenced thereby pursuant to this Agreement.

5.2. Fractional Interest. The Company shall not be required upon the exercise of any Warrant to issue any fractional shares, but may, in lieu of issuing any fractional shares of Common Stock make an adjustment therefore in cash on the basis of the Current Market Price per share of Common Stock on the date of such exercise. If Warrant Certificates evidencing more than one Warrant shall be presented for exercise at the same time by the same Holder, the number of full shares of Common Stock which shall be issuable upon such exercise thereof shall be computed on the basis of the aggregate number of Warrants so to be exercised. The Holders, by their acceptance of the Warrant Certificates, expressly waive their right to receive any fraction of a share of Common Stock or a stock certificate representing a fraction of a share of Common Stock if such amount of cash is paid in lieu thereof.

5.3. Liquidity Event Payment.

(a) In the event, at any time or from time to time after the Original Issue Date while the Warrants remain outstanding and unexpired in whole or in part, a Liquidity Event occurs, then:

(i) if such Liquidity Event occurs before the Thirty Month Date, the Company shall distribute, no later than the Liquidity Event Payment Date, to each Warrantholder holding Warrants that were outstanding at the Close of Business on the Liquidity Event Effective Date (whether or not such Warrant is outstanding on the Liquidity Event Payment Date) the product of (x) the Warrant Value, *times* (y) the total number of shares of Common Stock represented by all Warrants held by such Warrantholder;

(ii) if such Liquidity Event occurs after the Thirty Month Date, the Company shall distribute, no later than the Liquidity Event Payment Date, to each Warrantholder holding Warrants that were outstanding on the Liquidity Event Effective Date (whether or not such Warrant is outstanding on the Liquidity Event Payment Date), the sum of (A) (x) the per share value of the consideration that would be distributed or

paid in or with respect to each share of Common Stock on a fully-diluted basis at the consummation of the Liquidity Event, minus (y) the Exercise Price, times (B) the total number of shares of Common Stock represented by all Warrants held by such Warrantholder; and

(iii) in either case, effective immediately after the Close of Business on the Liquidity Event Effective Date, such Warrant shall be terminated and cancelled (subject only to the right of the applicable Warrantholder to receive the applicable Liquidity Event Proceeds on the Liquidity Event Payment Date).

(b) If the Liquidity Event Proceeds consist of items of consideration other than cash (or cash in part and other items of consideration in part), the Warrant Value payable to each Warrantholder in respect of each Warrant then held will be paid in such respective amounts of each of such item of consideration (including cash, if any) in the same proportion as such respective items of consideration are paid to the holders of other equity securities of the Company. Otherwise, the Warrant Value payable to each Warrantholder in respect of each Warrant then held shall be paid solely in cash.

(c) In connection with any Liquidity Event that occurs before the Thirty Month Date, the Warrant Value and related components and values set forth in the definitions of Warrant Value (and, if Section 5.3(b) applies, the respective amounts of the various items of consideration) shall be determined (the "Determinations") by an Independent Financial Expert selected as specified below. No later than two Business Days after the Liquidity Event Trigger Date, the Company shall provide notice of an Independent Financial Expert selected by the Company (the "Company Selected Expert") to each Holder in accordance with Section 11.1 (the date on which such notice is delivered, the "Notice Date"). To the extent Holders of Warrant Certificates evidencing a majority of the then outstanding Warrants (the "Required Warrantholders") object to the Company Selected Expert within seven days of the Notice Date, then the Company and Required Warrantholders shall jointly select an Independent Financial Expert by no later than the 10th day after the Notice Date. If the Company and the Required Warrantholders are unable to agree on a jointly selected Independent Financial Expert, the Required Warrantholders shall select promptly, but no later than the 14th day after the Notice Date, a separate Independent Financial Expert and such Independent Financial Expert and the Company Selected Expert shall select promptly, but no later than the 21st day after the Notice Date, a third Independent Financial Expert to make the Determinations. The Determinations of the finally selected Independent Financial Expert (the "Specified Independent Financial Expert") shall be final and conclusive, and the fees and expenses of any such Independent Financial Experts shall be borne by the Company. The Determinations shall be completed no later than the Business Day next preceding the Liquidity Event Payment Date for any Liquidity Event. The Independent Financial Expert(s) shall be acting solely as a valuation professional, and not as an arbitrator. The determination of the Independent Financial Expert(s) shall, absent manifest error, be final and binding with respect to the calculation of Current Market Value and Warrant Value, and the fees and expenses of the Independent Financial Expert(s) shall be borne solely by the Company.

6. **Loss or Mutilation.**

If (a) any mutilated Warrant Certificate is surrendered to the Warrant Agent or (b) both (i) there shall be delivered to the Company and the Warrant Agent (A) a claim by a Holder as to the destruction, loss or wrongful taking of any Warrant Certificate of such Holder and a request thereby for a new replacement Warrant Certificate, and (B) such indemnity bond as may be required by them to save each of them and any agent of either of them harmless and (ii) such other reasonable requirements as may be imposed by the Company have been satisfied, then, in the absence of notice to the Company or the Warrant Agent that such Warrant Certificate has been acquired by a "protected purchaser", the Company shall execute and upon its written request the Warrant Agent shall countersign and deliver to the registered Holder of the lost, wrongfully taken, destroyed or mutilated Warrant Certificate, in exchange therefore or in lieu thereof, a new Warrant Certificate of the same tenor and for a like aggregate number of Warrants. At the written request of such registered Holder, the new Warrant Certificate so issued shall be retained by the Warrant Agent as having been surrendered for exercise, in lieu of delivery thereof to such Holder, and shall be deemed for purposes of Section 3.2 to have been surrendered for exercise on the date the conditions specified in clauses (a) or (b) of the preceding sentence were first satisfied.

Upon the issuance of any new Warrant Certificate under this Section 6, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and other expenses (including the fees and expenses of the Warrant Agent and of counsel to the Company) in connection therewith.

Every new Warrant Certificate executed and delivered pursuant to this Section 6 in lieu of any lost, wrongfully taken or destroyed Warrant Certificate shall constitute an additional contractual obligation of the Company, whether or not the allegedly lost, wrongfully taken or destroyed Warrant Certificate shall be at any time enforceable by anyone, and shall be entitled to the benefits of this Agreement equally and proportionately with any and all other Warrant Certificates duly executed and delivered hereunder.

The provisions of this Section 6 are exclusive and shall preclude (to the extent lawful) all other rights or remedies with respect to the replacement of mutilated, lost, wrongfully taken, or destroyed Warrant Certificates.

7. **Reservation and Authorization of Common Stock.**

The Company covenants that, for the duration of the Exercise Period, the Company will at all times reserve and keep available, from its authorized and unissued Common Stock solely for issuance and delivery upon the exercise of the Warrants and free of preemptive rights, such number of shares of Common Stock and other securities, cash or property as from time to time shall be issuable upon the exercise in full of all outstanding Warrants. The Company further covenants that it shall, from time to time, take all steps necessary to increase the authorized number of shares of its Common Stock if at any time the authorized number of shares of Common Stock remaining unissued would otherwise be insufficient to allow delivery of all the shares of Common Stock then deliverable upon the exercise in full of all outstanding Warrants. The Company covenants that all shares of Common Stock issuable upon exercise of the Warrants will, upon issuance, be duly and validly issued, fully paid and nonassessable and will be free of restrictions on transfer and will be free from all taxes, liens and charges in respect of the issue

thereof. The Company shall take all such actions as may be necessary to ensure that all such shares of Common Stock may be so issued without violation of any applicable law or governmental regulation or any requirements of any domestic stock exchange upon which shares of Common Stock may be listed (except for official notice of issuance which shall be immediately delivered by the Company upon each such issuance). The Company covenants that all shares of Common Stock will, at all times that Warrants are exercisable, be duly approved for listing subject to official notice of issuance on each securities exchange, if any, on which the Common Stock is then listed. The Company covenants that the stock certificates issued to evidence any shares of Common Stock issued upon exercise of Warrants will comply with the Delaware General Corporation Law and any other applicable law.

The Company hereby authorizes and directs its current and future transfer agents for the Common Stock at all times to reserve stock certificates for such number of authorized shares as shall be requisite for such purpose. The Warrant Agent is hereby authorized to requisition from time to time from any such transfer agents stock certificates required to honor outstanding Warrants upon exercise thereof in accordance with the terms of this Agreement, and the Company hereby authorizes and directs such transfer agents to comply with all such requests of the Warrant Agent. The Company will supply such transfer agents with duly executed stock certificates for such purposes.

8. **Transfers; Warrant Transfer Books.**

8.1. Corporate Agency Office. The Warrant Agent will maintain an office (the "Corporate Agency Office") in the United States of America, where Warrant Certificates may be surrendered for registration of transfer or exchange in accordance with this Section 8 and where Warrant Certificates may be surrendered for exercise of Warrants evidenced thereby, which office is [●] on the Original Issuance Date. The Warrant Agent will give prompt written notice to all Warrantholders of any change in the location of such office. For purposes of this Section 8, "transfer" means any sale, assignment or other disposition of ownership interests in a Warrant.

8.2. Warrant Register. The Warrant Certificates evidencing the Warrants shall initially only be issued in registered form. The Company shall cause to be kept at the office of the Warrant Agent designated for such purpose a warrant register (the "Warrant Register") in which, subject to such reasonable regulations as the Warrant Agent may prescribe and such regulations as may be prescribed by law, the Company shall provide for the registration of Warrant Certificates and of transfers or exchanges of Warrant Certificates as herein provided.

8.3. Transfers. Upon surrender for registration of transfer of any Warrant Certificate at the Corporate Agency Office, the Company shall execute, and the Warrant Agent shall countersign and deliver, in the name of the designated transferee or transferees, one or more new Warrant Certificates evidencing the same aggregate number of Warrants; *provided*, that the Company and the Warrant Agent shall have received (a) a written instruction of transfer in form satisfactory to the Warrant Agent, duly executed by the Warrantholder thereof or by such Warrantholder's representative, duly authorized in writing, (b) a written certification by the proposed transferee that it (i) does not own ten percent (10%) or more of any Person engaged in the Business, (2) is not reasonably likely to own ten percent (10%) or more of any Person engaged in the Business within the next twelve (12) months, (3) is not a director, officer or

employee of any Person engaged in the Business or (4) is not a Person engaged in the Business, or an Affiliate thereof, and (c) surrender of the Warrant Certificate(s) representing the Warrants, duly endorsed for transfer. Subject to the foregoing, the Warrants shall be freely transferable; provided, however, that no Warrants or shares issuable upon exercise of the Warrants shall be sold, exchanged or otherwise transferred in violation of the Securities Act or state securities laws, and no Warrant shall be transferred to a competitor of the Company. Any attempt to transfer any Warrants not in compliance with this Agreement or the Warrants shall be null and void *ab initio*, and the Company and the Warrant Agent shall not give any effect in their respective records to such attempted transfer.

8.4. Exchanges. At the option of the Warrantholder, Warrant Certificates may be exchanged at the Corporate Agency Office upon payment of the charges hereinafter provided for other Warrant Certificates evidencing a like aggregate number of Warrants. Whenever any Warrant Certificates are so surrendered for exchange, the Company shall execute, and the Warrant Agent shall countersign and deliver, the Warrant Certificates of the same tenor and evidencing the same aggregate number of Warrants as evidenced by the Warrant Certificates surrendered by the Warrantholder making the exchange; *provided*, that the Warrant Agent shall have received (a) a written instruction of exchange in form satisfactory to the Warrant Agent, duly executed by the Warrantholder thereof or by his attorney, duly authorized in writing, and (b) surrender of the Warrant Certificate(s) representing the Warrants, duly endorsed for transfer.

8.5. Valid Obligations. All Warrant Certificates issued upon any registration of transfer or exchange of Warrant Certificates shall be the valid obligations of the Company, evidencing the same obligations, and entitled to the same benefits under this Agreement, as the Warrant Certificates surrendered for such registration of transfer or exchange.

8.6. No Service Charge. No service charge shall be made for any registration of transfer or exchange of Warrant Certificates; *provided, however*, the Company may require payment of a sum sufficient to cover any stamp or other tax or other charge that may be imposed in connection with any registration of transfer or exchange of Warrant Certificates. The Warrant Agent shall forward any such sum collected by it to the Company or to such Persons as the Company shall specify by written notice.

8.7. Reports of Ownership. The Warrant Agent shall, upon request of the Company from time to time, deliver to the Company such reports of registered ownership of the Warrants and such records of transactions with respect to the Warrants and the shares of Common Stock as the Company may request. The Warrant Agent shall also make available to the Company for inspection by the Company's agents or employees, from time to time as the Company may request, such original books of accounts and records maintained by the Warrant Agent in connection with the issuance and exercise of Warrants hereunder, such inspections to occur at the Corporate Agency Office during normal business hours.

8.8. Copies; Notice. The Warrant Agent shall keep copies of this Agreement and any notices given to Warrantholders hereunder available for inspection by the Warrantholders during normal business hours at the Corporate Agency Office. The Company shall supply the Warrant Agent from time to time with such numbers of copies of this Agreement as the Warrant Agency may request.

9. **Other Rights of Warrant Holders.**

9.1. Stockholders Agreement. Any holder of Common Stock issued upon the exercise of any Warrant shall execute and deliver a Joinder to the Company in connection therewith; *provided, however*, that notwithstanding the failure of any such holder to execute and delivery such Joinder, such holder shall still be deemed to be a party to the Stockholders' Agreement. The Company covenants and agrees that it shall not enter into any amendment, modification or waiver of the Stockholders' Agreement that adversely affects the rights available to Warrantholders under the Stockholders' Agreement as compared with the rights of holders of outstanding shares of Common Stock, in each case, without the consent of Warrantholders evidencing at least seventy-five percent (75%) of the outstanding Warrants.

9.2. Tag-Along Rights.

(a) Following the delivery of a Tag-Along Notice pursuant to Section 5(b)(iii) of the Stockholders' Agreement, each Warrantholder who has delivered such Tag-Along Notice (each, a "Tagging Warrantholder") shall promptly take the steps necessary to exercise its Warrants to convert such Warrants into an amount corresponding to the shares of Common Stock underlying the Warrants such Tagging Warrantholder proposes to sell as set forth in its Tag-Along Notice. If (x) a Tagging Warrantholder fails for any reason to take the necessary steps to exercise its Warrants to convert such Warrants into shares of Common Stock and (y) such Tagging Warrantholder's offer in its Tag-Along Notice has been accepted, then on the closing date of the transactions contemplated by the Tag-Along Sale, such Tagging Warrantholder shall be deemed to have exercised its Warrants to convert such Warrants into shares of Common Stock in an amount corresponding to the shares of Common Stock underlying the Warrants such Tagging Warrantholder is proposing to sell as set forth in its Tag-Along Notice.

(b) Notwithstanding anything to the contrary provided herein or in the Stockholders' Agreement, if for any reason the Tag-Along Sale is not consummated, any exercise by a Tagging Warrantholder to convert its Warrants into shares of Common Stock for the purpose of selling such shares in the Tag-Along Sale shall be null and void, and such Tagging Warrantholder's Warrants shall remain in full force and effect as though the exercise of such Warrants did not occur. The exercise or non-exercise of the rights of any Warrantholder to participate in a Tag-Along Sale shall not adversely affect the rights of such Warrantholder to participate in any subsequent proposed transfers or sales by the Selling Stockholders.

9.3. No Redemption. Except as provided in Section 5.3 upon a Liquidity Event, the Warrants shall not be subject to redemption by the Company or any other Person; *provided*, that the Warrants may be acquired by means other than a redemption, whether by tender offer, open market purchases, negotiated transactions or otherwise, in accordance with applicable securities laws, so long as such acquisition does not otherwise violate the terms of this Warrant Agreement.

9.4. No Voting or Dividend Rights. No Warrantholder shall have or exercise any rights by virtue hereof as a holder of outstanding shares Common Stock, including, without limitation, the right to vote, to receive dividends and other distributions as a holder of outstanding shares of Common Stock or to receive notice of, or attend, meetings or any other

proceedings of the holders of outstanding shares of Common Stock. Except as may be specifically provided for herein, until the exercise of any Warrant:

(a) the consent of any Warrantholder shall not be required with respect to any action or proceeding of the Company;

(b) no such Warrantholder, by reason of the ownership or possession of a Warrant or the Warrant Certificate representing the same, shall have any right to receive any cash dividends, stock dividends, allotments or rights or other distributions paid, allotted or distributed or distributable to the holders of outstanding shares of Common Stock prior to, or for which the relevant record date preceded, the date of the exercise of such Warrant; and

(c) no such Warrantholder shall have any right not expressly conferred hereunder or under, or by applicable law with respect to, the Warrant(s) held by such Warrantholder.

9.5. Rights of Action. All rights of action against the Company in respect of this Agreement, except rights of action vested in the Warrant Agent, are vested in the Warrantholders, and any Warrantholder, without the consent of the Warrant Agent or any other Warrantholder, may, in such Warrantholder's own behalf and for such Warrantholder's own benefit, enforce and may institute and maintain any suit, action or proceeding against the Company suitable to enforce, or otherwise in respect of, such Warrantholder's right to exercise such Warrantholder's Warrants in the manner provided in this Agreement.

9.6. Treatment of Holders of Warrant Certificates. Every Warrantholder, by accepting any Warrant, consents and agrees with the Company, with the Warrant Agent and with every subsequent holder of such Warrant that, prior to due presentment of such Warrant for registration of transfer in accordance with Section 8, the Company and the Warrant Agent may treat the Person in whose name the Warrant is registered as the owner thereof for all purposes and as the Person entitled to exercise the rights granted under the Warrants, and neither the Company, the Warrant Agent nor any agent thereof shall be affected by any notice to the contrary.

9.7. Communications to Holders.

(a) If any Warrantholder applies in writing to the Warrant Agent and such application states that the applicant desires to communicate with other Warrantholders with respect to its rights under this Warrant Agreement or under the Warrants, then the Warrant Agent shall, within five (5) Business Days after the receipt of such application, and upon payment to the Warrant Agent by such applicant of the reasonable expenses of preparing such list, provide to such applicant a list of the names and addresses of all Warrantholders as of the most recent practicable date.

(b) Every Warrantholder, by receiving and holding any Warrant, agrees with the Company and the Warrant Agent that neither the Company nor the Warrant Agent nor any agent of either of them shall be held accountable by reason of the disclosure of any such information as to the names and addresses of Warrantholders in accordance with Section 9.7(a).

10. **Concerning the Warrant Agent.**

10.1. Nature of Duties and Responsibilities Assumed. The Company hereby appoints the Warrant Agent to act as agent of the Company as set forth in this Agreement. The Warrant Agent hereby accepts the appointment as agent of the Company and agrees to perform that agency upon the terms and conditions set forth in this Agreement and in the Warrants or as the Company and the Warrant Agent may hereafter agree, by all of which the Company and the Warrantholders, by their acceptance thereof, shall be bound; *provided, however*, that the terms and conditions contained in the Warrants are subject to and governed by this Agreement or any other terms and conditions hereafter agreed to by the Company and the Warrant Agent.

The Warrant Agent shall not, by countersigning any Warrant Certificate or by any other act hereunder, be deemed to make any representations as to validity or authorization of (i) the Warrants or the Warrant Certificates (except as to its countersignature thereon), (ii) any securities or other property delivered upon exercise of any Warrant, (iii) the accuracy of the computation of the number or kind or amount of stock or other securities or other property deliverable upon exercise of any Warrant, (iv) the independence of any Independent Financial Expert or (v) the correctness of any of the representations of the Company made in such certificates that the Warrant Agent receives. The Warrant Agent shall not at any time have any duty to calculate or determine whether any facts exist that may require any adjustments pursuant to Section 5 hereof with respect to the kind and amount of shares or other securities or any property issuable to Warrantholders upon the exercise of Warrants required from time to time. The Warrant Agent shall have no duty or responsibility to determine the accuracy or correctness of such calculation or with respect to the methods employed in making the same. The Warrant Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock or of any securities or property which may at any time be issued or delivered upon the exercise of any Warrant or upon any adjustment pursuant to Section 5 hereof, and it makes no representation with respect thereto. The Warrant Agent shall not be responsible for any failure of the Company to make any cash payment or to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property upon the surrender of any Warrant Certificate for the purpose of exercise or upon any adjustment pursuant to Section 5 hereof or to comply with any of the covenants of the Company contained in Section 5 hereof.

The Warrant Agent shall not (a) be liable for any recital or statement of fact contained herein or in the Warrant Certificates or for any action taken, suffered or omitted by it in good faith on the reasonable belief that any Warrant Certificate or any other documents or any signatures are genuine or properly authorized, (b) be responsible for any failure on the part of the Company to comply with any of its covenants and obligations contained in this Agreement or in the Warrant Certificates or (c) be liable for any act or omission in connection with this Agreement except for its own gross negligence, bad faith or willful misconduct.

The Warrant Agent is hereby authorized to accept and protected in accepting instructions with respect to the performance of its duties hereunder by Company Order and to apply to any such officer named in such Company Order for instructions (which instructions will be promptly given in writing when requested), and the Warrant Agent shall not be liable for any action taken or suffered to be taken by it in good faith in accordance with the instructions in any Company Order.

The Warrant Agent may execute and exercise any of the rights and powers hereby vested

in it or perform any duty hereunder either itself or by or through its attorneys, agents or employees, provided, however, reasonable care has been exercised in the selection and in the continued employment of any such attorney, agent or employee. The Warrant Agent shall not be under any obligation or duty to institute, appear in or defend any action, suit or legal proceeding in respect hereof, unless first indemnified to its satisfaction, but this provision shall not affect the power of the Warrant Agent to take such action as the Warrant Agent may consider proper, whether with or without such indemnity. The Warrant Agent shall promptly notify the Company in writing of any claim made or action, suit or proceeding instituted against it arising out of or in connection with this Agreement.

The Company shall perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further acts, instruments and assurances as may reasonably be required by the Warrant Agent in order to enable it to carry out or perform its duties under this Agreement.

The Warrant Agent shall act solely as agent of the Company hereunder and does not assume any obligation or relationship of agency or trust for or with any of the Warrantholders or any beneficial owners of Warrants. The Warrant Agent shall not be liable except for the failure to perform such duties as are specifically set forth herein or specifically set forth in the Warrants, and no implied covenants or obligations shall be read into this Agreement against the Warrant Agent whose duties and obligations shall be determined solely by the express provisions hereof or the express provisions of the Warrants.

10.2. Right to Consult Counsel. The Warrant Agent may at any time consult with legal counsel satisfactory to it (who may be legal counsel for the Company), and the Warrant Agent shall incur no liability or responsibility to the Company or to any Holder for any action taken, suffered or omitted by it in good faith in accordance with the written opinion or advice of such counsel.

10.3. Compensation, Reimbursement and Indemnification. The Company agrees to pay the Warrant Agent from time to time compensation relating to its services hereunder as set forth on Exhibit B hereto and to reimburse the Warrant Agent for reasonable expenses and disbursements, including reasonable counsel fees incurred in connection with the administration of this Agreement. The Company further agrees to indemnify the Warrant Agent for and save it harmless against any losses, liabilities or reasonable expenses arising out of or in connection with the acceptance and administration of this Agreement, including the reasonable costs, legal fees and expenses of defending any claim of such liability, except that the Company shall have no liability hereunder to the extent that any such loss, liability or expense results from the Warrant Agent's own gross negligence, bad faith or willful misconduct.

10.4. Warrant Agent May Hold Company Securities. The Warrant Agent, any Countersigning Agent and any stockholder, director, officer or employee of the Warrant Agent or any Countersigning Agent may buy, sell or deal in any of the warrants or other securities of the Company or its Affiliates, become pecuniarily interested in transactions in which the Company or its Affiliates may be interested, contract with or lend money to the Company or its Affiliates or otherwise act as fully and freely as though it were not the Warrant Agent or the Countersigning Agent, respectively, under this Agreement. Nothing herein shall preclude the

Warrant Agent or any Countersigning Agent from acting in any other capacity for the Company or for any other legal entity.

10.5. Resignation and Removal; Appointment of Successor.

(a) The Warrant Agent may resign its duties and be discharged from all further duties and liability hereunder (except liability arising as a result of the Warrant Agent's own gross negligence or willful misconduct) after giving 30 days' prior written notice to the Company. The Company may remove the Warrant Agent upon 30 days' written notice, and the Warrant Agent shall thereupon in like manner be discharged from all further duties and liabilities hereunder, except as aforesaid. The Warrant Agent shall, at the expense of the Company, cause notice to be given in accordance with Section 11.1(b) to each Warrantholder of said notice of resignation or notice of removal, as the case may be. Upon such resignation or removal, the Company shall appoint in writing a new Warrant Agent. If the Company shall fail to make such appointment within a period of 30 calendar days after it has been notified in writing of such resignation by the resigning Warrant Agent or after such removal, then the Warrantholder may apply to any court of competent jurisdiction for the appointment of a new Warrant Agent. Any new Warrant Agent, whether appointed by the Company or by such a court, shall be a corporation doing business under the laws of the United States or any state thereof in good standing, authorized under such laws to act as Warrant Agent, and having a combined capital and surplus of not less than $25,000,000. The combined capital and surplus of any such new Warrant Agent shall be deemed to be the combined capital and surplus as set forth in the most recent annual report of its condition published by such Warrant Agent prior to its appointment, provided, however, such reports are published at least annually pursuant to law or to the requirements of a Federal or state supervising or examining authority. After acceptance in writing of such appointment by the new Warrant Agent, it shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as the Warrant Agent, without any further assurance, conveyance, act or deed; but if for any reason it shall be reasonably necessary or expedient to execute and deliver any further assurance, conveyance, act or deed, the same shall be done at the reasonable expense of the Company and shall be legally and validly executed and delivered by the resigning or removed Warrant Agent. Not later than the effective date of any such appointment, the Company shall file notice thereof with the resigning or removed Warrant Agent. Failure to give any notice provided for in this Section 10.5(a), however, or any defect therein, shall not affect the legality or validity of the resignation of the Warrant Agent or the appointment of a new Warrant Agent as the case may be.

(b) Any corporation into which the Warrant Agent or any new Warrant Agent may be merged, or any corporation resulting from any consolidation to which the Warrant Agent or any new Warrant Agent shall be a party, shall be a successor Warrant Agent under this Agreement without any further act, provided that such corporation would be eligible for appointment as successor to the Warrant Agent under the provisions of Section 10.5(a). Any such successor Warrant Agent shall promptly cause notice of its succession as Warrant Agent to be given in accordance with Section 11.1(b) to each Warrantholder at such Warrantholder's last address as shown on the Warrant Register.

11. **Notices.**

11.1. Notices Generally.

(a) Any request, notice, direction, authorization, consent, waiver, demand or other communication permitted or authorized by this Agreement to be made upon, given or furnished to or filed with the Company or the Warrant Agent by the other party hereto or by any Warrantholder shall be sufficient for every purpose hereunder if in writing (including facsimile or electronic mail communication) and faxed, sent via electronic mail, or delivered by hand (including by courier service) as follows:

If to the Company, to it at:
[●]
[●]
Attention: [●]
Facsimile no.: [●]
E-mail: [●]

or

If to the Warrant Agent, to it at:
[●]
[●]
Attention: [●]
Facsimile no.: [●]
E-mail: [●]

or, in either case, such other address as shall have been set forth in a notice delivered in accordance with this Section 11.1(a).

All such communications shall, when so (i) faxed or sent via electronic mail or (ii) delivered by hand (including by courier service), be effective when faxed or sent via electronic mail with confirmation of receipt or when received by the addressee, respectively.

(b) Where this Agreement provides for notice to Warrantholders of any event or delivery of any information or documents to Warrantholders, such notice or delivery shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Warrantholder affected by such event or entitled to receive such delivery, at the address of such Warrantholder as it appears in the Warrant Register, not later than the latest date, and not earlier than the earliest date, prescribed for the giving of such notice or the making of such delivery. In any case where notice or delivery to Warrantholders is given by mail, neither the failure to mail such notice or delivery, nor any defect in any notice or delivery so mailed, to any particular Warrantholder shall affect the sufficiency of such notice or delivery with respect to other Warrantholders. Where this Agreement provides for notice or delivery in any manner, such notice or delivery may be waived in writing by the Person entitled to receive such notice or delivery, either before or after the event, and such waiver shall be the equivalent of such notice or delivery.

In case by reason of the suspension of regular mail service or by reason of any other

cause it shall be impracticable to give such notice by mail, then such notification as shall be made by a method approved by the Warrant Agent as one which would be most reliable under the circumstances for successfully delivering the notice to the addressees shall constitute a sufficient notification for every purpose hereunder.

11.2. Required Notices to Holders. In the event the Company shall propose:

(a) to make or issue any dividend or distribution to holders of outstanding shares of Common Stock or other stock, other securities, cash, assets or property (including any Property Dividend or Substantially All Dividend);

(b) to issue any New Securities to any Person;

(c) to effect any capital reorganization, consolidation or merger or amalgamation of the Company with or into another Person or of another Person into the Company, sale, transfer or other disposition of all or substantially all of the Company's assets to any other Person, or other similar transaction, or any Transaction, or any Tag-Along Sale;

(d) to effect the voluntary or involuntary dissolution, liquidation or winding-up of the Company;

(e) to effect any reclassification of its Common Stock; or

(f) to commence any tender offer (including any exchange offer) for the purchase (including the acquisition pursuant to an exchange offer) of all or any portion of the outstanding shares of Common Stock (or shall amend any such offer),

then, and in each such case, the Company shall cause to be filed with the Warrant Agent and shall give to each Warrantholder , in accordance with Section 11.1(b), a notice of such proposed action. Such notice shall: (w) specify the date on which a record is to be taken for the purposes of any such dividend or distribution; (x) in the case of any issuance covered by clause (b), be in the form of a New Issuance Notice; (y) (1) specify the date on which such reclassification, Transaction, liquidation, dissolution or winding up is expected to become effective and the date as of which it is expected that holders of outstanding shares of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities, cash or other property deliverable upon such reclassification, Transaction, liquidation, dissolution or winding up, and, (2) in the case of a Tag-Along Sale covered by clause (c), be in the form of a Sale Notice; or (z) specify the date on which such tender offer commenced, the date on which such tender offer is scheduled to expire unless extended, the consideration offered and the other material terms thereof (or the material terms of any amendment thereto). Such notice shall be given, (A) in the case of any dividend or distribution covered by clause (a) above, at least ten (10) days prior to the record date for determining holders of outstanding shares of the Common Stock for purposes of such action, (B) in the case of any issuance covered by clause (b), at least fifteen (15) Business Days prior to such issuance, (C) in the case of a Tag-Along Sale covered by clause (iii), at least twenty (20) days prior to the closing date of the Tag-Along Sale, or (D) in the case of any other action covered by Section 11.2(a) through (v) above, at least ten (10) days prior to the applicable effective or expiration date specified above.

If at any time the Company shall cancel any of the proposed transactions for which notice has been given under this Section 11.2 prior to the consummation thereof, the Company shall give each Warrantholder prompt notice of such cancellation in accordance with Section 11.1(b) hereof.

12. **Inspection.**

The Warrant Agent shall cause a copy of this Agreement to be available at all reasonable times at the office of the Warrant Agent for inspection by the Warrantholder. The Warrant Agent may require any Warrantholder to submit his Warrant Certificate, if any, for inspection by it.

13. **Amendments.**

The Company and the Warrant Agent may, without the consent or concurrence of any of the Warrantholders, by supplemental agreement or otherwise, amend this Agreement for the purpose of making any changes or corrections in this Agreement that (i) are required to cure any ambiguity or to correct or supplement any defective or inconsistent provision or clerical omission or mistake or manifest error herein contained or (ii) add to the covenants and agreements of the Company in this Agreement further covenants and agreements of the Company thereafter to be observed, or surrender any rights or powers reserved to or conferred upon the Company in this Agreement; *provided, however*, that in either case such amendment shall not adversely affect the rights or interests of the Warrantholders hereunder in any respect. This Agreement may otherwise be amended by the Company and the Warrant Agent with the consent of Warrantholders holding at least fifty percent (50%) of the outstanding Warrants.

The Warrant Agent shall join with the Company in the execution and delivery of any such amendment unless such amendment affects the Warrant Agent's own rights, duties or immunities hereunder, in which case the Warrant Agent may, but shall not be required to, join in such execution and delivery. Upon execution and delivery of any amendment pursuant to this Section 13, such amendment shall be considered a part of this Agreement for all purposes and every Warrantholder theretofore or thereafter countersigned and delivered hereunder shall be bound thereby.

Promptly after the execution by the Company and the Warrant Agent of any such amendment, the Company shall give notice to the Warrantholders, providing a copy of such amendment, in accordance with the provisions of Section 11.1(b). Any failure of the Company to mail such notice or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment.

14. **Waivers.**

The Company may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if (i) the Company has obtained the written consent of Warrantholders holding a majority of the then outstanding Warrants, and (ii) any consent required pursuant to Section 13 has been obtained.

15. **Equitable Relief.**

Each of the Company and each of the Warrantholders acknowledges that a breach or threatened breach by such party of any of its obligations under this Agreement or any Warrant would give rise to irreparable harm to the other for which monetary damages would not be an adequate remedy and hereby agrees that in the event of a breach or a threatened breach by the Company or any Warrantholder(s) of any such obligations, the other party shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction.

16. **Headings.**

The section headings contained in this Agreement are inserted for convenience only and will not affect in any way the meaning or interpretation of this Agreement.

17. **Counterparts.**

This Agreement may be executed in two or more counterparts, each of which will be deemed to be an original, but all of which together constitute one and the same instrument.

18. **Severability.**

The provisions of this Agreement will be deemed severable and the invalidity or unenforceability of any provision hereof will not affect the validity or enforceability of the other provisions hereof; provided that if any provision of this Agreement, as applied to any party or to any circumstance, is adjudged by a court or governmental body not to be enforceable in accordance with its terms, the parties agree that the court or governmental body making such determination will have the power to modify the provision in a manner consistent with its objectives such that it is enforceable, and/or to delete specific words or phrases, and in its reduced form, such provision will then be enforceable and will be enforced.

19. **Persons Benefiting.**

This Agreement shall be binding upon and inure to the benefit of the Company, the Warrantholders and the Warrant Agent, and their respective successors and assigns. Nothing in this Agreement, express or implied, is intended to confer upon any person other than the Company, the Warrant Agent and the Warrantholders any rights or remedies under or by reason of this Agreement or any part hereof. Each Warrantholder, by acceptance of a Warrant, agrees to all of the terms and provisions of this Agreement applicable thereto.

20. **Applicable Law.**

THIS AGREEMENT, EACH WARRANT ISSUED HEREUNDER AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO AND THERETO, INCLUDING THE INTERPRETATION, CONSTRUCTION, VALIDITY AND ENFORCEABILITY THEREOF, SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. Each of the Company, each Warrantholder and the Warrant Agent agrees that it shall bring any litigation with respect to any claim arising out of or

related to this Agreement or any Warrant, exclusively in the Delaware Court of Chancery (and if jurisdiction in the Delaware Court of Chancery shall be unavailable, the Federal courts of the United States of America sitting in the State of Delaware) (together with the appellate courts thereof, the "Chosen Courts"). In connection with any claim arising out of or related to this Agreement or any Warrant, each of the Company, each Warrantholder and the Warrant Agent hereby irrevocably and unconditionally (i) submits to the exclusive jurisdiction of the Chosen Courts, (ii) waives any objection that such Person may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any Warrant in the Chosen Courts, (iii) waives any objection that the Chosen Courts are an inconvenient forum or as not having jurisdiction over either the Company, the Warrantholder or the Warrant Agent, (iv) agrees that service of process in any such action or proceeding shall be effective if notice is given in accordance with this Agreement, although nothing contained in this Agreement shall affect the right to serve process in any other manner permitted by law and (v) agrees not to seek a transfer of venue on the basis that another forum is more convenient. Notwithstanding anything herein to the contrary, (i) nothing in this Section 20 shall prohibit any Person from seeking or obtaining orders for conservatory or interim relief from any court of competent jurisdiction and (ii) each of the Company, each Warrantholder and the Warrant Agent agrees that any judgment issued by a Chosen Court may be recognized, recorded, registered or enforced in any jurisdiction in the world and waives any and all objections or defenses to the recognition, recording, registration or enforcement of such judgment in any such jurisdiction.

21. **Waiver of Trial by Jury.** EACH OF THE COMPANY, EACH WARRANTHOLDER AND THE WARRANT AGENT ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT OR ANY WARRANT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PERSON HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PERSON MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND/OR ANY WARRANT. EACH OF THE COMPANY, EACH WARRANTHOLDER AND THE WARRANT AGENT CERTIFIES AND ACKNOWLEDGES THAT (I) NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) SUCH PERSON UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) SUCH PERSON MAKES THIS WAIVER VOLUNTARILY, AND (IV) SUCH PERSON HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

22. **Waiver of Certain Damages.** To the extent permitted by applicable law, each of the Company, each Warrantholder and the Warrant Agent agrees not to assert, and hereby waives, any claim against any other party, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any Warrant or any of the transactions contemplated hereby.

23. **No Recourse.** Notwithstanding anything that may be expressed or implied in this Agreement, each Warrantholder and the Warrant Agent covenants, agrees and acknowledges that

no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement shall be had against any of the former, current or future direct or indirect equity holders, controlling Persons, stockholders, directors, officers, employees, agents, Affiliates, members, financing sources, managers, general or limited partners or assignees (and collectively, the "Non-Recourse Parties"), in each case other than the Company or any of their permitted assigns under this Agreement, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any of the Non-Recourse Parties, as such, for any obligation or liability of the Company under this Agreement or any documents or instruments delivered in connection herewith for any claim based on, in respect of or by reason of such obligations or liabilities or their creation; *provided, however*, nothing in this Section 23 shall relieve or otherwise limit the liability of the Company for any breach or violation of its obligations under this Agreement or such agreements, documents or instruments.

[*Signature page follows.*]

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

[4L HOLDINGS CORPORATION]

By:_____
Name:
Title:

AMERICAN STOCK TRANSFER & TRUST COMPANY, LLC, as Warrant Agent

By:_____
Name:
Title:

Exhibit A

Form of Warrant Certificate

[*See attached.*]

Exhibit B

Warrant Agent Compensation

[*See attached.*]

Exhibit G

Restructuring Steps Memorandum

This **Exhibit G** contains the Restructuring Steps Memorandum. Certain documents, or portions thereof, contained in this **Exhibit G** and the Plan Supplement remain subject to continuing negotiations among the Debtors, the Required Consenting Term Loan Lenders, the Consenting Sponsors, and other interested parties with respect thereto. All parties reserve all rights to amend, revise, or supplement the Plan Supplement, and any of the documents and designations contained herein, at any time before the Effective Date of the Plan, or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court. Each of the documents contained in the Plan Supplement or its amendments are subject to certain consent and approval rights to the extent provided in the Plan or the Restructuring Support Agreement.

Restructuring Steps Memorandum

In accordance with the Plan, the steps set forth in this Restructuring Steps Memorandum[1] remain subject to modification until the Effective Date. The parties reserve all rights to amend, revise, or supplement the Plan Supplement, including this Exhibit, subject to the applicable consent rights under the Plan at any time prior to the Effective Date or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court.

The Debtors have not yet determined how the Restructuring Transactions will be structured, whether in whole or in part, and the steps implemented under this Restructuring Steps Memorandum will differ depending upon whether the Debtors implement the Restructuring Transactions as a taxable transaction ("Structure A") or a recapitalization of the Debtors ("Structure B").

Structure A:

If the Debtors elect to implement the Restructuring Transactions as taxable transactions as set forth in this Structure A, unless otherwise set forth below, the following steps shall occur in the order set forth below:

1. Prior to the Effective Date: (a) an agent for Holders of Claims shall form a new U.S. entity taxable as a corporation for U.S. federal income tax purposes ("Parent"), (b) Parent shall form a new U.S. entity taxable as a corporation for U.S. federal income tax purposes ("Intermediate Corp."), and (c) Intermediate Corp. shall form a new U.S. entity taxable as a corporation for U.S. federal income tax purposes ("Purchaser").[2]

2. On the Effective Date, unless the Debtors or Reorganized Debtors take a different action in any relevant books and records: (a) all intercompany claims among U.S. entities shall be cancelled, and (b) all intercompany claims between U.S. and non-U.S. entities shall be Reinstated.

3. On the Effective Date: (a) Parent shall issue 100% of the New Common Stock and New Warrants to Intermediate Corp., and (b) Intermediate Corp. shall contribute such New Common Stock and New Warrants to Purchaser.

4. On the Effective Date and pursuant to a purchase agreement (the "Purchase Agreement"): (a) Purchaser shall purchase from Clover Technologies Group, LLC ("Seller")[3] all of the stock of

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[1] Capitalized terms that are not defined herein shall have the meaning ascribed to them in the Plan or Disclosure Statement, as the case may be.

[2] Parent, Intermediate Corp., and Purchaser shall each be either a corporation or a limited liability company that elects to be classified as an association taxable as a corporation for U.S. federal income tax purposes. Additional intermediate entities may be created in the ownership chain between Parent and Purchaser if the Debtors and Holders of Claims determine that any such additional entities are warranted.

[3] Alternatively, the Debtors and Holders of Claims may cause 4L Technologies Inc. to sell all its interests in Clover Technologies Group, LLC with corresponding adjustments made to subsequent steps.

Refurb Holdings, LLC and all of the other assets of Seller except for certain assets to be excluded pursuant to the Purchase Agreement (including any assets necessary to permit the Non-Acquired Entities (as defined below) to discharge its obligations under the Plan and all relevant documents) (the "Purchased Assets") in exchange for (i) the New Common Stock, (ii) New Warrants, (iii) the Take-Back Term Loan Facility,[4] and (iv) the assumption of all other liabilities of Seller that are not being discharged pursuant to the Plan.[5]

5. On the Effective Date and immediately following Step 4: (a) (i) Seller shall distribute the New Warrants to 4L Technologies Inc., which shall in turn distribute such New Warrants to 4L Holdings Corporation, which shall in turn distribute such New Warrants to 4L Topco Corporation, which shall in turn distribute such New Warrants to 4L Ultimate Topco, (ii) all Existing Interests in 4L Ultimate Topco shall be cancelled, released, and extinguished, and will be of no further force or effect, and (iii) each Holder of a Class 7 Allowed Existing Equity Interest will receive its Pro Rata share of the New Warrants; (b) each Holder of a Class 3 Term Loan Secured Claim will receive its Pro Rata share of the New Common Stock, the Take-Back Term Loans, and any Excess Cash, in each case, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Term Loan Secured Claim; and (c) Seller shall make any other distributions or disbursements it is obligated to make in accordance with the Plan and all relevant documents and fund any other applicable accounts or escrows (e.g., for professional fees).

6. On or after the Effective Date (and, in any case, as soon as possible following the Effective Date), in the event that any assets remain at Seller following any disbursements and other actions Seller must take pursuant to the Plan, such assets will be conveyed to Purchaser pursuant to the Purchase Agreement; provided that such assets will, to the maximum extent permitted under applicable law, be treated as having been transferred by Seller to Purchaser on the Effective Date.

7. Following the Effective Date, 4L Ultimate Topco, 4L Topco Corporation, 4L Holdings Corporation, 4L Technologies Inc., and Clover Technologies Group, LLC (the "Non-Acquired Entities") will be wound up and dissolved.

8. Following the Effective Date, the Reorganized Debtors may, but will not necessarily: (a) join with the Debtors to make elections under Section 338(h)(10) of the Code with respect to U.S. subsidiaries directly or indirectly acquired from Seller to which such election applies, and (b) make elections under Section 338(g) of the Code with respect to non-U.S. subsidiaries directly or indirectly acquired from Seller to which such election applies.

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[4] Purchaser shall issue the Take-Back Term Loans as provided for under the Plan, guaranteed by Intermediate Corp. and governed by the Take-Back Term Loan Credit Agreement, as consideration under the Purchase Agreement.

[5] Any liabilities of direct and indirect subsidiaries directly or indirectly acquired from Seller will remain at such direct or indirect subsidiaries.

Structure B:

If the Debtors elect to implement the Restructuring Transactions as a recapitalization as set forth in this Structure B, unless otherwise set forth below, the following steps shall occur in the order set forth below:

1. On the Effective Date, unless the Debtors or Reorganized Debtors take a different action in any relevant books and records, all intercompany claims shall be Reinstated.

2. On the Effective Date, 4L Ultimate Topco contributes the New Common Stock to 4L Topco Corporation, which in turn contributes such New Common Stock to 4L Holdings Corporation, which in turn contributes such New Common Stock to 4L Technologies, Inc., which in turn contributes such New Common Stock to Clover Technologies Group, LLC.

3. On the Effective Date, 4L Holdings Corporation issues the Take-Back Term Loans, which Take-Back Term Loans are guaranteed by 4L Topco Corporation, to 4L Technologies Inc. in exchange for an intercompany claim that will remain outstanding after the Effective Date.

4. Immediately after Step 3 and on the Effective Date, 4L Technologies Inc. contributes such Take-Back Term Loans to Clover Technologies Group, LLC in exchange for an intercompany claim that will remain outstanding after the Effective Date.

5. On the Effective Date: (a) each Holder of a Class 3 Term Loan Secured Claim will receive its Pro Rata share of the New Common Stock, the Take-Back Term Loans, and any Excess Cash in full and final satisfaction, settlement, release, and discharge of and in exchange for each Term Loan Secured Claim; and (b) (i) all Existing Interests in 4L Ultimate Topco shall be cancelled, released, and extinguished, and will be of no further force or effect, and (ii) each Holder of a Class 7 Allowed Existing Equity Interest will receive its Pro Rata share of the New Warrants.

Exhibit H

Identities of the Members of the Reorganized Clover Board and the Officers of Reorganized Clover

As of the Effective Date, the terms of the current members of the boards of directors of the Debtors shall have expired, and the officers of the Reorganized Debtors shall be appointed in accordance with the New Organizational Documents and other constituent documents of each Reorganized Debtor. Pursuant to section 1129(a)(5) of the Bankruptcy Code, to the extent known and determined, on or prior to the Effective Date, the number and identity of the members of the Reorganized Clover Board shall be determined by the Required Consenting Term Loan Lenders in accordance with the Plan, the Restructuring Support Agreement and/or the applicable New Organizational Documents.

This **Exhibit H** contains the Identities of the Members of the Reorganized Clover Board and the Officers of Reorganized Clover. Certain documents, or portions thereof, contained in this **Exhibit H** and the Plan Supplement remain subject to continuing negotiations among the Debtors, the Required Consenting Term Loan Lenders, the Consenting Sponsors, and other interested parties with respect thereto. All parties reserve all rights to amend, revise, or supplement the Plan Supplement, and any of the documents and designations contained herein, at any time before the Effective Date of the Plan, or any such other date as may be provided for by the Plan or by order of the Bankruptcy Court. Each of the documents contained in the Plan Supplement or its amendments are subject to certain consent and approval rights to the extent provided in the Plan or the Restructuring Support Agreement.

In accordance with the Plan, the Required Consenting Term Loan Lenders have determined that the Reorganized Clover Board shall consist of seven (7) members. As of the date hereof, the following five (5) individuals have been selected to be directors on the Reorganized Clover Board:

1. Mina Faltas
2. Dan Fletcher
3. Nick Ghoussaini
4. Malcolm McRoberts
5. Dan Perez

The remaining two (2) directors will be selected in accordance with the Restructuring Support Agreement and the New Organizational Documents, as applicable.

Director Biographies

(1) **Mina Faltas** is the founder and Managing Member of Washington Harbour Partners LP, an investment firm that manages public and private debt and equity investments. Prior to founding Washington Harbour in 2019, Mr. Faltas was the co-founder, Managing Partner, and Head of Research at Nokota Management, a multi-billion dollar multi-strategy investment fund. Prior to Nokota Management, Mr. Faltas was a Senior Investment Analyst at Viking Global Investors from 2008 to 2011 and, before that, held several positions at JPMorgan since 2000. Mr. Faltas has a B.S. in Commerce (Finance) from the University of Virginia and currently serves on the Advisory Board of the McIntire School of Commerce. Mr. Faltas currently serves as a Senior Advisor to Diameter Capital Partners and on the board of eSports holding company, aXiomatic.

(2) **Dan Fletcher** is a seasoned executive and certified public accountant. Mr. Fletcher is currently the Chief Financial Officer of Host Analytics, an enterprise software leader, as well as an Operating Partner within Vector Capital's Value Creation Team, where he works alongside Vector's investment professionals in all aspects of the private equity investment process and portfolio company operations. Prior to joining Vector, Mr. Fletcher was a Manager for Alvarez & Marsal's Private Equity Services Division, where he served in various interim management roles for portfolio companies of large private equity firms. Prior to Alvarez & Marsal, Mr. Fletcher held various positions at Sterling Partners, a private equity firm, Allstate Investments, and PricewaterhouseCoopers. Mr. Fletcher has a B.S. and Masters from the University of Missouri.

(3) **Nick Ghoussaini** is the Head of Credit Strategies at Vector Capital. Prior to joining Vector Capital in 2011, Mr. Ghoussaini was a Senior Associate at Veritas Capital, a private equity firm. Prior to Veritas Capital, Mr. Ghoussaini was employed by Cypress Group and was an analyst in the Industrials Group at Lehman Brothers. Mr. Ghoussaini holds a B.A. in Economics and German from Tufts University and an MBA from the Wharton School of Business of the University of Pennsylvania.

(4) **Malcolm McRoberts** is an executive with more than 30 years of senior management, operations, and technology experience. Mr. McRoberts is currently an Operating Partner within Vector Capital's Value Creation Team, where he works alongside Vector's investment professionals in all aspects of the private equity investment process and portfolio company operations. Prior to joining Vector Capital, Mr. McRoberts held various roles within a number of public companies where he established a track-record of developing, leading, and executing technology solution business plans on both a national and global scale. Most recently, Mr. McRoberts was the President of the Small Business Services Division of Deluxe Corp. (a Fortune 500 company). Prior to Deluxe, Mr. McRoberts held a number of positions within NCR Corp., Merloni Elettrodomestici SpA, and Lucas Aerospace. Mr. McRoberts holds a M. Eng. from Warwick University, U.K., as well as a B. Eng. from Strathclyde University, U.K., and a Masters Certificate in Commercial Project Management from George Washington University.

(5) **Dan Perez** is the current Chief Executive Officer of Clover Wireless at Clover Technologies Group, LLC, and will be the CEO of Reorganized Clover. Before joining Clover, Mr. Perez advised private equity firms on, among other things, investments in the industrial and medical technology space. Prior to that, Mr. Perez held numerous positions, including Advisor at Ecopia Farms, an industrial-scale agriculture startup; CEO and President of OnCore Manufacturing Services LLC; Executive Vice President of Worldwide Account Management & Management at Solectron Corporation; and multiple management positions at IBM. Mr. Perez currently serves on the boards of, among others, 4L Technologies, the Tech Museum of Innovation, and the Silicon Valley Community Foundation. Mr. Perez holds an MBA from the Anderson School of Business at the University of California, Los Angeles, as well as a bachelor's degree in Political Science from the University of California, Los Angeles.