
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): September 21, 2021

a.k.a. Brands Holding Corp.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-40828
(Commission
File Number)

87-0970919
(IRS Employer
Identification No.)

**100 Montgomery Street, Suite 1600
San Francisco, California**
(Address of principal executive offices)

94104
(Zip Code)

415-295-6085
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report.)

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.001 par value	AKA	New York Stock Exchange (NYSE)

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01. Entry into a Material Definitive Agreement.

On September 21, 2021, a.k.a. Brands Holding Corp. (the “Company”) priced the initial public offering (“IPO”) of its common stock, \$0.001 par value per share (the “Common Stock”), at an offering price of \$11.00 per share (the “IPO Price”), pursuant to the Company’s registration statement on Form S-1 (File No. 333-259028), as amended (the “Registration Statement”). On September 21, 2021, in connection with the pricing of the IPO, the Company entered into an underwriting agreement (the “Underwriting Agreement”) with BofA Securities, Inc., Credit Suisse Securities (USA) LLC and Jefferies LLC, as representatives of the several underwriters identified therein (the “Underwriters”), pursuant to which the Company agreed to offer and sell 10,000,000 shares of its Common Stock (the “Firm Shares”) at the IPO Price. The Underwriters were granted a 30-day option to purchase up to an additional 1,500,000 shares of Common Stock from the Company at the IPO Price. The IPO closed and the Firm Shares were delivered on September 24, 2021.

The Company made customary representations, warranties and covenants and agreed to indemnify the Underwriters against (or contribute to the payment of) certain liabilities, including liabilities under the Securities Act of 1933, as amended (the “Securities Act”).

This description of the Underwriting Agreement is qualified in its entirety by reference to the full text of the Underwriting Agreement attached hereto as Exhibit 1.1 and incorporated herein by reference.

In connection with the IPO, the Company entered into the following agreements, substantially similar forms of which were previously described in the Registration Statement:

- Registration Rights Agreement, dated as of September 24, 2021, a copy of which is filed as Exhibit 4.1 to this Current Report on Form8-K and incorporated herein by reference (a substantially similar form of which was previously filed with the Registration Statement);
- Director Nomination Agreement, dated as of September 24, 2021, a copy of which is filed as Exhibit 10.1 to this Current Report on Form8-K and incorporated herein by reference (a substantially similar form of which was previously filed with the Registration Statement); and
- Senior Secured Credit Facility, dated as of September 24, 2021, a copy of which is filed as Exhibit 10.2 to this Current Report on Form8-K and incorporated herein by reference.

Item 1.02. Termination of a Material Definitive Agreement.

On September 24, 2021, upon entry into the Senior Secured Credit Facility described in Item 1.01 above, the Syndicated Facility Agreement, dated March 31, 2021, by and among Polly Holdco Pty Ltd, Excelerate, L.P., DBFLF EXCL ADMN LLC and the lenders party thereto was terminated and all obligations outstanding thereunder (other than customary obligations) were paid off and extinguished.

Item 3.02. Unregistered Sales of Equity Securities.

Prior to the closing of the IPO, in connection with the Reorganization Transactions, as defined and described in the Registration Statement, the Company issued:

- an aggregate of 94,780,338 shares of Common Stock to New Excelerate, L.P. and the Australian Management Investors (each as defined in the Registration Statement) in exchange for their interests in Excelerate L.P. and New Excelerate GP LP; and
- 21,809,804 shares of Common Stock to the CK Rollover Investors (as defined in the Registration Statement) in exchange for their interests in CK Holdings LP.

No underwriters were involved in the transactions described in this Item 3.02. The issuance of such Common Stock was made in reliance on Section 4(a)(2) of the Securities Act and Rule 506 promulgated thereunder.

The description in item 5.03 below of the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws is incorporated herein by reference.

Item 3.03. Material Modifications to Rights of Security Holders.

The description in Item 5.03 below of the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws is incorporated herein by reference.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On September 21, 2021, Wesley Bryett, Christopher Dean, Matthew Hamilton, Myles McCormick, and Kelly Thompson (the “Director Appointees”) were appointed to the Company’s board of directors. Information regarding the committees upon which the Director Appointees serve as directors and the compensation plan in which the Director Appointees may participate were previously reported in the Registration Statement.

On or around September 24, 2021, the Company entered into indemnification agreements with its directors and executive officers in connection with the closing of the IPO. These agreements require the Company to indemnify these individuals to the fullest extent permitted under Delaware law against liabilities that may arise by reason of their service to the Company, and to advance expenses incurred as a result of any proceeding against them as to which they could be indemnified.

These indemnification rights are not exclusive of any other right which an indemnified person may have or hereafter acquire under any statute, provision of the Amended and Restated Certificate of Incorporation, the Amended and Restated Bylaws, any agreement, or vote of stockholders or disinterested directors or otherwise.

The foregoing is only a summary of the material terms of the indemnification agreements, and is qualified in its entirety by reference to the form of indemnification agreement, which is filed as Exhibit 10.3 to this Current Report on Form 8-K and is incorporated herein by reference.

On September 21, 2021, the Company adopted the a.k.a. Brands Holding Corp. 2021 Omnibus Incentive Plan (the “Plan”) and the a.k.a. Brands Holding Corp. 2021 Employee Stock Purchase Plan (“ESPP”), copies of which are filed as Exhibit 10.4 and Exhibit 10.5, respectively, to this Current Report on Form 8-K and are incorporated by herein by reference. The description and form of the Plan and ESPP are substantially the same as the description and the forms set forth in and filed as exhibits to the Registration Statement.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

On September 21, 2021, the Company’s Amended and Restated Certificate of Incorporation, in the form previously filed as Exhibit 3.1 to the Registration Statement, and the Company’s Amended and Restated Bylaws, in the form previously filed as Exhibit 3.2 to the Registration Statement, became effective. The Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws are filed herewith as Exhibits 3.1 and 3.2, respectively, and are incorporated herein by reference. The descriptions and forms of the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws are substantially the same as the descriptions and forms set forth in and filed as exhibits to the Registration Statement.

Item 8.01. Other Events.

On September 21, 2021, the Company issued a press release announcing the pricing of the IPO, a copy of which is filed as Exhibit 99.1 hereto and is incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description of Exhibit
1.1	<u>Underwriting Agreement, dated as of September 21, 2021, among a.k.a. Brands Holding Corp. and BofA Securities, Inc., Credit Suisse Securities (USA) LLC and Jefferies LLC, as representatives for the underwriters named therein.</u>
3.1	<u>Amended and Restated Certificate of Incorporation of a.k.a. Brands Holding Corp., filed with the Delaware Secretary of State on September 21, 2021.</u>
3.2	<u>Amended and Restated Bylaws of a.k.a. Brands Holding Corp., effective September 21, 2021.</u>
4.1	<u>Registration Rights Agreement, dated September 24, 2021, by and among a.k.a. Brands Holding Corp. and the other signatories party thereto.</u>
10.1	<u>Director Nomination Agreement, dated as of September 24, 2021, by and among the Company and the other signatories party thereto.</u>
10.2	<u>Syndicated Facility Agreement, dated as of September 24, 2021, by and among the Company, KeyBank National Association and the other signatories party thereto.</u>
10.3	<u>Form of Indemnification Agreement (incorporated by reference to Exhibit 10.3 to a.k.a. Brands Holding Corp.'s Registration Statement on Form S-1 (File No. 333-259028), filed with the Securities and Exchange Commission on August 24, 2021).</u>
10.4	<u>a.k.a. Brands Holding Corp. 2021 Omnibus Incentive Plan (incorporated by reference to Exhibit 10.1 to a.k.a. Brands Holding Corp.'s Registration Statement on Form S-8 (File No. 259753), filed with the Securities and Exchange Commission on September 23, 2021).</u>
10.5	<u>a.k.a. Brands Holding Corp. 2021 Employee Stock Purchase Plan (incorporated by reference to Exhibit 10.5 to a.k.a. Brands Holding Corp.'s Registration Statement on Form S-8 (File No. 259753), filed with the Securities and Exchange Commission on September 23, 2021).</u>
99.1	<u>Press Release dated September 21, 2021.</u>

SIGNATURES

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

A.K.A. BRANDS HOLDING CORP.

Date: September 27, 2021

By: /s/ Ciaran Long
Name: Ciaran Long
Title: Chief Financial Officer

A.K.A. BRANDS HOLDING CORP.

(A Delaware corporation)

10,000,000 Shares of Common Stock

UNDERWRITING AGREEMENT

Dated: September 21, 2021

A.K.A. BRANDS HOLDING CORP.

(A Delaware corporation)

10,000,000 Shares of Common Stock

UNDERWRITING AGREEMENT

September 21, 2021

BofA Securities, Inc.
Credit Suisse Securities (USA) LLC
Jefferies LLC

as Representatives of the several Underwriters

c/o BofA Securities, Inc.
One Bryant Park
New York, New York 10036

c/o Credit Suisse Securities (USA) LLC
Eleven Madison Avenue
New York, New York 10010

c/o Jefferies LLC
520 Madison Avenue
New York, New York 10022

Ladies and Gentlemen:

a.k.a. Brands Holding Corp., a Delaware corporation (the “Company”) confirms its agreement with BofA Securities, Inc. (“BofA”), Credit Suisse Securities (USA) LLC (“CS”), Jefferies LLC (“Jefferies”) and each of the other Underwriters named in Schedule A hereto (collectively, the “Underwriters,” which term shall also include any underwriter substituted as hereinafter provided in Section 10 hereof), for whom BofA, CS and Jefferies are acting as representatives (in such capacity, the “Representatives”), with respect to (i) the sale by the Company and the purchase by the Underwriters, acting severally and not jointly, of the respective numbers of shares of Common Stock, par value \$0.001 per share, of the Company (“Common Stock”) set forth in Schedule A hereto and (ii) the grant by the Company to the Underwriters, acting severally and not jointly, of the option described in Section 2(b) hereof to purchase all or any part of 1,500,000 additional shares of Common Stock. The aforesaid 10,000,000 shares of Common Stock (the “Initial Securities”) to be purchased by the Underwriters and all or any part of the 1,500,000 shares of Common Stock subject to the option described in Section 2(b) hereof (the “Option Securities”) are herein called, collectively, the “Securities.”

The Company understands that the Underwriters propose to make a public offering of the Securities as soon as the Representatives deem advisable after this Agreement has been executed and delivered.

The Company and the Underwriters agree that up to 700,000 shares of the Initial Securities to be purchased by the Underwriters (the “Reserved Securities”) shall be reserved for sale by Merrill Lynch, Pierce, Fenner & Smith Incorporated (an affiliate of BofA, hereinafter referred to as “Merrill Lynch”) to certain persons designated by the Company (the “Invitees”), as part of the distribution of the Securities by the Underwriters, subject to the terms of this Agreement, the applicable rules, regulations and interpretations of the Financial Industry Regulatory Authority, Inc. (“FINRA”) and all other applicable laws, rules and regulations. The Company has solely determined, without any direct or indirect participation by the Underwriters or Merrill Lynch, the Invitees who will purchase Reserved Securities (including the amount to be purchased by such persons) sold by Merrill Lynch. To the extent that such Reserved Securities are not orally confirmed for purchase by Invitees by 11:59 P.M. (New York City time) on the date of this Agreement, such Reserved Securities may be offered to the public as part of the public offering contemplated hereby.

The Company has filed with the Securities and Exchange Commission (the “Commission”) a registration statement on Form S-1 (No. 333-259028), including the related preliminary prospectus or prospectuses, covering the registration of the sale of the Securities under the Securities Act of 1933, as amended (the “1933 Act”). Promptly after execution and delivery of this Agreement, the Company will prepare and file a prospectus in accordance with the provisions of Rule 430A (“Rule 430A”) of the rules and regulations of the Commission under the 1933 Act (the “1933 Act Regulations”) and Rule 424(b) (“Rule 424(b)”) of the 1933 Act Regulations. The information included in such prospectus that was omitted from such registration statement at the time it became effective but that is deemed to be part of such registration statement at the time it became effective pursuant to Rule 430A(b) is herein called the “Rule 430A Information.” Such registration statement, including the amendments thereto, the exhibits thereto and any schedules thereto, at the time it became effective, and including the Rule 430A Information, is herein called the “Registration Statement.” Any registration statement filed pursuant to Rule 462(b) of the 1933 Act Regulations is herein called the “Rule 462(b) Registration Statement” and, after such filing, the term “Registration Statement” shall include the Rule 462(b) Registration Statement. Each prospectus used prior to the effectiveness of the Registration Statement, and each prospectus that omitted the Rule 430A Information that was used after such effectiveness and prior to the execution and delivery of this Agreement, is herein called a “preliminary prospectus.” The final prospectus, in the form first furnished to the Underwriters for use in connection with the offering of the Securities, is herein called the “Prospectus.” For purposes of this Agreement, all references to the Registration Statement, any preliminary prospectus, the Prospectus or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system or any successor system (“EDGAR”).

As used in this Agreement:

“Acquired Company” means Culture Kings Group Pty Ltd, together with its subsidiaries, which the Company acquired on March 31, 2021 pursuant to the Share Sale Agreement dated February 2, 2021.

“Applicable Time” means 8:15 P.M., New York City time, on September 21, 2021 or such other time as agreed by the Company and the Representatives.

“General Disclosure Package” means any Issuer General Use Free Writing Prospectuses issued at or prior to the Applicable Time, the most recent preliminary prospectus that is distributed to investors prior to the Applicable Time and the information included on Schedule B-1 hereto, all considered together.

“Issuer Free Writing Prospectus” means any “issuer free writing prospectus,” as defined in Rule 433 of the 1933 Act Regulations (“Rule 433”), including without limitation any “free writing prospectus” (as defined in Rule 405 of the 1933 Act Regulations (“Rule 405”)) relating to the Securities that is (i) required to be filed with the Commission by the Company, (ii) a “road show for an offering that is a written communication” within the meaning of Rule 433(d)(8)(i), whether or not required to be filed with the Commission, or (iii) exempt from filing with the Commission pursuant to Rule 433(d)(5)(i) because it contains a description of the Securities or of the offering that does not reflect the final terms, in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company’s records pursuant to Rule 433(g).

“Issuer General Use Free Writing Prospectus” means any Issuer Free Writing Prospectus that is intended for general distribution to prospective investors (other than a *bona fide* electronic road show,” as defined in Rule 433 (the “Bona Fide Electronic Road Show”)), as evidenced by its being specified in Schedule B-2 hereto.

“Issuer Limited Use Free Writing Prospectus” means any Issuer Free Writing Prospectus that is not an Issuer General Use Free Writing Prospectus.

“Testing-the-Waters Communication” means any oral or written communication with potential investors in connection with the offer and sale of the Securities undertaken in reliance on Section 5(d) of the 1933 Act.

“Written Testing-the-Waters Communication” means any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the 1933 Act.

SECTION 1. Representations and Warranties.

(a) *Representations and Warranties by the Company.* The Company represents and warrants to each Underwriter as of the date hereof, the Applicable Time, the Closing Time (as defined below) and any Date of Delivery (as defined below), and agrees with each Underwriter, as follows:

(i) **Registration Statement and Prospectuses.** Each of the Registration Statement and any amendment thereto has become effective under the 1933 Act. No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued under the 1933 Act, no order preventing or suspending the use of any preliminary prospectus or the Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to the Company’s knowledge, contemplated by the Commission. The Company has complied with each request (if any) from the Commission for additional information.

Each of the Registration Statement and any post-effective amendment thereto, at the time it became effective, the Applicable Time, the Closing Time and any Date of Delivery complied and will comply in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations. Each preliminary prospectus, the Prospectus and any amendment or supplement thereto, at the time each was filed with the Commission, and, in each case, at the Applicable Time, the Closing Time and any Date of Delivery complied and will comply in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations. Each preliminary prospectus delivered to the Underwriters for use in connection with this offering and the Prospectus was or will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(ii) **Accurate Disclosure.** Neither the Registration Statement nor any amendment thereto, at its effective time, on the date hereof, at the Closing Time or at any Date of Delivery, contained, contains or will contain an untrue statement of a material fact or omitted, omits or will omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. At the Applicable Time and any Date of Delivery, none of (A) the General Disclosure Package, (B) any individual Issuer Limited Use Free Writing Prospectus, when considered together with the General Disclosure Package and (C) and individual Written Testing-the-Waters Communication, when considered together with the General Disclosure Package, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. Neither the Prospectus nor any amendment or supplement thereto, as of its issue date, at the time of any filing with the Commission pursuant to Rule 424(b), at the Closing Time or at any Date of Delivery, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

The representations and warranties in this subsection shall not apply to statements in or omissions from the Registration Statement (or any amendment thereto), the General Disclosure Package, any Issuer Limited Use Free Writing Prospectus, any Written Testing-the-Water Communication or the Prospectus (or any amendment or supplement thereto) made in reliance upon and in conformity with written information furnished to the Company by any Underwriter through the Representatives expressly for use therein. For purposes of this Agreement, the only information so furnished by any Underwriter shall be the information in the first paragraph under the heading “Underwriting–Commissions and Discounts,” the information in the second, third and fourth paragraphs under the heading “Underwriting–Price Stabilization, Short Positions and Penalty Bids” and the information under the heading “Underwriting–Electronic Distribution” in each case contained in the Prospectus (collectively, the “Underwriter Information”).

(iii) **Issuer Free Writing Prospectuses.** No Issuer Free Writing Prospectus conflicts or will conflict with the information contained in the Registration Statement or the Prospectus and any preliminary or other prospectus deemed to be a part thereof that has not been superseded or modified; provided that the foregoing sentence does not apply to statements in or omissions from any Issuer Free Writing Prospectus made in reliance upon an in conformity with the Underwriter Information. The Company has made available a Bona Fide Electronic Road Show in compliance with Rule 433(d)(8)(ii) such that no filing of any “road show” (as defined in Rule 433(h)) is required in connection with the offering of the Securities.

(iv) **Testing-the-Waters Materials.** The Company (A) has not engaged in any Testing-the-Waters Communication other than Testing-the-Waters Communications with the consent of the Representatives with entities that the Company reasonably believes are qualified institutional buyers within the meaning of Rule 144A under the 1933 Act or institutions that are accredited investors within the meaning of Rule 501 under the 1933 Act and (B) has not authorized anyone other than the Representatives to engage in Testing-the-Waters Communications. The Company reconfirms that the Representatives have been authorized to act on its behalf in undertaking Testing-the-Waters Communications as specifically authorized by the Company. The Company has not distributed any Written Testing-the-Waters Communications other than those listed on Schedule B-2 hereto.

(v) **Company Not Ineligible Issuer.** At the time of filing the Registration Statement and any post-effective amendment thereto, at the earliest time thereafter that the Company or another offering participant made a *bona fide* offer (within the meaning of Rule 164(h)(2) of the 1933 Act Regulations) of the Securities and at the date hereof, the Company was not and is not an “ineligible issuer,” as defined in Rule 405, without taking account of any determination by the Commission pursuant to Rule 405 that it is not necessary that the Company be considered an ineligible issuer.

(vi) **Emerging Growth Company Status.** From the time of the initial confidential submission of the Registration Statement to the Commission (or, if earlier, the first date on which the Company engaged directly or through any individual or entity (each, a “Person”) authorized to act on its behalf in any Testing-the-Waters Communication) through the date hereof, the Company has been and is an “emerging growth company,” as defined in Section 2(a) of the 1933 Act (an “Emerging Growth Company”).

(vii) **Independent Accountants.** The accountants who certified the financial statements and supporting schedules of the Company or the Acquired Company, as the case may be, included in the Registration Statement, the General Disclosure Package and the Prospectus are independent public accountants with respect to the Company or the Acquired Company, respectively, as required by the 1933 Act, the 1933 Act Regulations and the Public Company Accounting Oversight Board.

(viii) **Company Financial Statements.** The financial statements of the Company included in the Registration Statement, the General Disclosure Package and the Prospectus, together with the related schedules and notes, present fairly in all material respects the financial position of the Company and its consolidated subsidiaries at the dates indicated and the statement of operations, stockholders’ equity and cash flows of the Company and its consolidated subsidiaries for the periods specified; said financial statements have been prepared in conformity with U.S. generally accepted accounting principles (“GAAP”) applied on a consistent basis throughout the periods involved. The related supporting schedules, if any, present fairly in accordance with GAAP the information required to be stated therein in all material respects. The summary financial information with respect to the Company included in the Registration Statement, the General Disclosure Package and the Prospectus present fairly in all material respects the information shown therein and have been compiled on a basis consistent with that of the audited financial statements of the Company included therein. The pro forma financial statements and the related notes thereto included in the Registration Statement, the General Disclosure Package and the Prospectus present fairly in all material respects the information shown therein, have been prepared in accordance with the Commission’s rules and guidelines with respect to pro forma financial statements and have been properly compiled on the bases described therein, and the assumptions used in the preparation thereof are reasonable and the adjustments used therein are appropriate to give effect to the transactions and circumstances referred to therein. Except as included therein, no historical or pro forma financial statements or supporting schedules are required to be included or incorporated by reference in the Registration Statement, the General Disclosure Package or the Prospectus under the 1933 Act or the 1933 Act Regulations.

(ix) **Acquired Company Financial Statements.** The financial statements of the Acquired Company included in the Registration Statement, the General Disclosure Package and the Prospectus, together with the related schedules and notes, present fairly in all material respects the financial position of the Acquired Company and its consolidated subsidiaries at the dates indicated and the statement of operations, stockholders’ equity and cash flows of the

Acquired Company and its consolidated subsidiaries for the periods specified. Such financial statements have been prepared in conformity with U.S. generally accepted accounting principles (“GAAP”) applied on a consistent basis throughout the periods involved. The related supporting schedules, if any, present fairly in accordance with GAAP the information required to be stated therein in all material respects. The selected financial data and the summary financial information of the Acquired Company, if any, included in the Registration Statement, the General Disclosure Package and the Prospectus present fairly the information shown therein and have been compiled on a basis consistent with that of the audited financial statements of the Acquired Company included therein.

(x) Non-GAAP Financial Measures. All disclosures contained in the Registration Statement, the General Disclosure Package or the Prospectus regarding “non-GAAP financial measures” (as such term is defined by the rules and regulations of the Commission) comply in all material respects with Regulation G of the Securities Exchange Act of 1934, as amended (the “1934 Act”) and Item 10 of Regulation S-K of the 1933 Act, to the extent applicable.

(xi) No Material Adverse Change in Business. Except as otherwise stated therein, since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, (A) there has been no material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business (a “Material Adverse Effect”), (B) there have been no transactions entered into by the Company or any of its subsidiaries, other than those in the ordinary course of business, which are material with respect to the Company and its subsidiaries considered as one enterprise, and (C) there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its capital stock.

(xii) Good Standing of the Company. The Company has been duly organized and is validly existing as a corporation in good standing under the laws of the State of Delaware and has corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus and to enter into and perform its obligations under this Agreement; and the Company is duly qualified as a foreign corporation to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result in a Material Adverse Effect.

(xiii) Good Standing of Subsidiaries. Each “significant subsidiary” of the Company (as such term is defined in Rule 1-02 of Regulation S-X) (each, a “Subsidiary” and, collectively, the “Subsidiaries”) has been duly organized and is validly existing in good standing under the laws of the jurisdiction of its incorporation or organization (or such equivalent concept to the extent it exists under the laws of such jurisdiction), has corporate or similar power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the General Disclosure Package and the Prospectus and is duly qualified to transact business and is in good standing (or such equivalent concept to the extent it exists under the laws of such jurisdiction) in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify or to be in good standing would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect. Except as otherwise disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, all of the issued and outstanding capital stock of each Subsidiary has been duly authorized and validly issued, is

fully paid and non-assessable and is owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance or claim. None of the outstanding shares of capital stock of any Subsidiary were issued in violation of the preemptive or similar rights of any securityholder of such Subsidiary. The only subsidiaries of the Company are (A) the subsidiaries listed on Exhibit 21 to the Registration Statement and (B) certain other subsidiaries which, considered in the aggregate as a single subsidiary, do not constitute a “significant subsidiary” as defined in Rule 1-02 of Regulation S-X.

(xiv) Capitalization. The authorized, issued and outstanding shares of capital stock of the Company are as set forth in the Registration Statement, the General Disclosure Package and the Prospectus in the column entitled “Actual” under the caption “Capitalization” (except for subsequent issuances, if any, pursuant to this Agreement, pursuant to reservations, agreements or employee benefit plans referred to in the Registration Statement, the General Disclosure Package and the Prospectus or pursuant to the exercise of convertible securities or options referred to in the Registration Statement, the General Disclosure Package and the Prospectus). The outstanding shares of capital stock of the Company have been duly authorized and validly issued and are fully paid and non-assessable. None of the outstanding shares of capital stock of the Company were issued in violation of the preemptive or other similar rights of any securityholder of the Company.

(xv) Authorization of Agreement. This Agreement has been duly authorized, executed and delivered by the Company.

(xvi) Authorization and Description of Securities. The Securities to be purchased by the Underwriters from the Company have been duly authorized for issuance and sale to the Underwriters pursuant to this Agreement and, when issued and delivered by the Company pursuant to this Agreement against payment of the consideration set forth herein, will be validly issued and fully paid and non-assessable; and the issuance of the Securities pursuant to this Agreement is not subject to the preemptive or other similar rights of any securityholder of the Company. The Common Stock conforms in all material respects to all statements relating thereto in the section titled “Description of Capital Stock” contained in the Registration Statement, the General Disclosure Package and the Prospectus and such description conforms in all material respects to the rights set forth in the instruments defining the same. No holder of Securities will be subject to personal liability solely by reason of being such a holder.

(xvii) Registration Rights. There are no persons with registration rights or other similar rights to have any securities registered for sale pursuant to the Registration Statement or otherwise registered for sale or sold by the Company under the 1933 Act pursuant to this Agreement, other than those rights that have been disclosed in the Registration Statement, the General Disclosure Package and the Prospectus and which have been validly waived.

(xviii) Absence of Violations, Defaults and Conflicts. Neither the Company nor any of its subsidiaries is (A) in violation of its charter, by-laws or similar organizational document, (B) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which it or any of them may be bound or to which any of the properties or assets of the Company or any subsidiary is subject (collectively, “Agreements and Instruments”), except for such defaults that would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect, or (C) in violation of any law, statute, rule, regulation, judgment, order, writ or decree of any arbitrator, court, governmental body, regulatory body, administrative agency or other authority, body or agency having jurisdiction over the Company or any of its subsidiaries or

any of their respective properties, assets or operations (each, a “Governmental Entity”), except for such violations that would not, singly or in the aggregate, result in a Material Adverse Effect. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein and in the Registration Statement, the General Disclosure Package and the Prospectus (including the issuance and sale of the Securities and the use of the proceeds from the sale of the Securities as described therein under the caption “Use of Proceeds”) and compliance by the Company with its obligations hereunder have been duly authorized by all necessary corporate action and do not and will not, whether with or without the giving of notice or passage of time or both, conflict with or constitute a breach of, or default or Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any properties or assets of the Company or any subsidiary pursuant to, the Agreements and Instruments (except for such conflicts, breaches, defaults or Repayment Events or liens, charges or encumbrances that would not, singly or in the aggregate, result in a Material Adverse Effect), nor will such action result in any violation of (i) the provisions of the charter, by-laws or similar organizational document of the Company or any of its subsidiaries or (ii) any law, statute, rule, regulation, judgment, order, writ or decree of any Governmental Entity, except, in the case of clause (ii), for any violation that would not, singly or in the aggregate, result in a Material Adverse Effect or materially affect the ability of the Underwriters to consummate the transactions contemplated by the Agreement. As used herein, a “Repayment Event” means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder’s behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its subsidiaries.

(xix) Absence of Labor Dispute. No labor dispute with the employees of the Company or any of its subsidiaries exists or, to the knowledge of the Company, is imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its or any subsidiary’s principal suppliers, manufacturers, customers or contractors, which, in either case, would reasonably be expected to result in a Material Adverse Effect.

(xx) Absence of Proceedings. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, there is no action, suit, proceeding, inquiry or investigation before or brought by any Governmental Entity now pending or, to the knowledge of the Company, threatened, against or affecting the Company or any of its subsidiaries, which would reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect, or which would reasonably be expected to, singly or in the aggregate, materially and adversely affect their respective properties or assets or the consummation of the transactions contemplated in this Agreement or the performance by the Company of its obligations hereunder; and the aggregate of all pending legal or governmental proceedings to which the Company or any such subsidiary is a party or of which any of their respective properties or assets is the subject which are not described in the Registration Statement, the General Disclosure Package and the Prospectus, including ordinary routine litigation incidental to the business, could not reasonably be expected to result in a Material Adverse Effect.

(xxi) Accuracy of Exhibits. There are no contracts or documents which are required to be described in the Registration Statement, the General Disclosure Package or the Prospectus or to be filed as exhibits to the Registration Statement which have not been so described and filed as required.

(xxii) Absence of Further Requirements. No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any Governmental Entity is necessary or required for the performance by the Company of its obligations hereunder, in connection with the offering, issuance or sale of the Securities hereunder or the consummation of the transactions contemplated by this Agreement, except (A) such as have been already obtained or as may be required under the 1933 Act, the 1933 Act Regulations, the rules of the New York Stock Exchange, state securities laws or the rules of FINRA (B) where the failure to obtain such filing, authorization, approval, consent, license, order, registration, qualification or decree would not, singly or in the aggregate, have a Material Adverse Effect or materially affect the ability of the Underwriters to consummate the transactions contemplated by this Agreement and (C) such as have been obtained under the laws and regulations of jurisdictions outside the United States in which the Reserved Securities were offered.

(xxiii) Possession of Licenses and Permits. The Company and its subsidiaries possess such permits, licenses, approvals, consents and other authorizations (collectively, "Governmental Licenses") issued by the appropriate Governmental Entities necessary to conduct the business now operated by them as described in the Registration Statement, the General Disclosure Package and the Prospectus, except where the failure so to possess would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect. The Company and its subsidiaries are in compliance with the terms and conditions of all Governmental Licenses, except where the failure so to comply would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect. All of the Governmental Licenses are valid and in full force and effect, except where the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect. Neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any Governmental Licenses which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to result in a Material Adverse Effect.

(xxiv) Title to Property. The Company and its Subsidiaries do not own any real property. The Company and its subsidiaries have good title to all personal properties owned by them, in each case, free and clear of all mortgages, pledges, liens, security interests, claims, restrictions or encumbrances of any kind except such as (A) are described in the Registration Statement, the General Disclosure Package and the Prospectus or (B) do not, singly or in the aggregate, materially and adversely affect the value of such property and do not materially and adversely interfere with the use made and proposed to be made of such property by the Company or any of its subsidiaries; and all of the leases and subleases material to the business of the Company and its subsidiaries, considered as one enterprise, and under which the Company or any of its subsidiaries holds properties described in the Registration Statement, the General Disclosure Package or the Prospectus, are in full force and effect, except to the extent that any such failure to be in full force and effect would not, singly or in the aggregate, result in a Material Adverse Effect, and neither the Company nor any such subsidiary has any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Company or any subsidiary under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Company or such subsidiary to the continued possession of the leased or subleased premises under any such lease or sublease.

(xxv) Possession of Intellectual Property. Except as disclosed in the Registration Statement, General Disclosure Package and Prospectus, and except as would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect, (A) the Company and its Subsidiaries own or possess, or have a valid and enforceable license to use or can acquire on reasonable terms, adequate patents, patent rights, inventions, technology, databases, software and source code, copyrights, know-how (including trade secrets and other unpatented and/or

unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names, domain names, or other intellectual property (including any and all issuances and registrations and applications for issuance or registration of, and all goodwill associated with any of the foregoing, as applicable) (collectively, “Intellectual Property”) necessary to conduct the business now operated by them or as proposed to be operated in the Registration Statement, the General Disclosure Package and the Prospectus; (B) to the knowledge of the Company, all Intellectual Property owned by or licensed to the Company is valid and enforceable and neither the Company nor any of its Subsidiaries is aware of any facts or circumstances which would render any Intellectual Property of the Company or its Subsidiaries invalid, unenforceable or inadequate to protect the interest of the Company or any of its Subsidiaries therein; (C) the Company and its Subsidiaries have not received any written notice of, and are not otherwise aware of, any pending or threatened claim alleging infringement, misappropriation or other violation of any Intellectual Property of any person, or challenging the validity, enforceability, adequacy, scope or ownership of any Intellectual Property of the Company or its subsidiaries, and the Company is unaware of any facts which would form a reasonable basis for any such claim; (D) to the knowledge of the Company, no Intellectual Property owned or exclusively licensed to the Company and its subsidiaries has been infringed, misappropriated or otherwise violated by any person; (E) the conduct of the Company and any of its Subsidiaries, as now operated or as proposed to be operated in the in the Registration Statement, the General Disclosure Package and the Prospectus, does not and would not reasonably be expected to, singly or in the aggregate, infringe, misappropriate or otherwise violate any rights of others with respect to any Intellectual Property; (F) the Company and its Subsidiaries have taken reasonable steps in accordance with normal industry practice to maintain the confidentiality of all Intellectual Property, the value of which to the Company or any of its subsidiaries is contingent upon maintaining the confidentiality thereof; and (G) all founders, current and former employees, consultants, representatives, agents and other parties involved in the development of Intellectual Property for or on behalf of the Company and any of its subsidiaries have signed written and enforceable confidentiality and invention assignment agreements with the Company or its Subsidiaries pursuant to which the Company or its subsidiaries have obtained sole and exclusive ownership of such Intellectual Property.

(xxvi) **Environmental Laws.** Except as described in the Registration Statement, the General Disclosure Package and the Prospectus or would not reasonably be expected to, singly or in the aggregate, result in a Material Adverse Effect, (A) neither the Company nor any of its Subsidiaries is in violation of any federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products, asbestos-containing materials or mold (collectively, “Hazardous Materials”) or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, “Environmental Laws”), (B) the Company and its subsidiaries have all permits, authorizations and approvals required under any applicable Environmental Laws and are each in compliance with their requirements, (C) there are no pending or, to the Company’s knowledge, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigations or proceedings relating to any Environmental Law against the Company or any of its subsidiaries and (D) to the Company’s knowledge, there are no events or circumstances that would reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or Governmental Entity, against or affecting the Company or any of its subsidiaries relating to Hazardous Materials or any Environmental Laws.

(xxvii) Accounting Controls. The Company and each of its subsidiaries, on a consolidated basis, maintain a system of effective internal control over financial reporting (as defined under Rule 13-a15 and 15d-15 under the 1934 Act Regulations) and a system of internal accounting controls sufficient to provide reasonable assurances that (A) transactions are executed in accordance with management's general or specific authorization; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as described in the Registration Statement, the General Disclosure Package and the Prospectus, since the end of the Company's most recent audited fiscal year, there has been (1) no material weakness in the Company's internal control over financial reporting (whether or not remediated) (it being understood that this subsection shall not require the Company to comply with Section 404 of the Sarbanes-Oxley Act of 2002 (together with all rules and regulations promulgated thereunder or implementing the provisions thereof, the "Sarbanes-Oxley Act") as of an earlier date than it would otherwise be required to so comply under applicable law) and (2) no change in the Company's internal control over financial reporting that has materially and adversely affected, or is reasonably likely to materially and adversely affect, the Company's internal control over financial reporting.

(xxviii) Compliance with the Sarbanes-Oxley Act. The Company has taken all necessary actions to ensure that, upon the effectiveness of the Registration Statement, it will be in compliance with all provisions of the Sarbanes-Oxley Act that are then in effect and with which the Company is required to comply as of the effectiveness of the Registration Statement, and is actively taking steps to establish compliance with other provisions of the Sarbanes-Oxley Act not currently in effect, upon the effectiveness of such provisions, or which will become applicable to the Company at all times after the effectiveness of the Registration Statement.

(xxix) Payment of Taxes. All United States federal income tax returns of the Company and its subsidiaries required by law to be filed by them have been filed or a timely extension has been requested thereof and all taxes shown by such returns or otherwise assessed, which are due and payable, have been paid, except assessments against which appeals have been or will be promptly taken and as to which adequate reserves have been provided in accordance with GAAP or to the extent any failure to file or pay such taxes or assessments would not result in a Material Adverse Effect. The United States federal income tax returns of the Company through the fiscal year ended December 31, 2020 have been filed, and to the Company's knowledge no assessment in connection therewith has been made against the Company. The Company and its subsidiaries have filed all other tax returns that are required to have been filed by them pursuant to applicable foreign, state, local or other law except insofar as the failure to file such returns would not reasonably be expected to result in a Material Adverse Effect, and has paid all taxes due pursuant to such returns or pursuant to any assessment received by the Company and its subsidiaries, except for such taxes, if any, as are being contested in good faith and as to which adequate reserves have been established by the Company in accordance with GAAP or where the failure to do so would not result in a Material Adverse Effect. The charges, accruals and reserves on the books of the Company in respect of any income and corporation tax liability for any years not finally determined are adequate to meet any assessments or re-assessments for additional income tax for any years not finally determined, except to the extent of any inadequacy that would not reasonably be expected to result in a Material Adverse Effect.

(xxx) **Insurance**. The Company and its subsidiaries carry or are entitled to the benefits of insurance, with financially sound and reputable insurers, in such amounts and covering such risks as the Company reasonably believes is generally maintained by companies of established repute, of comparable size and engaged in the same or similar business, and all such insurance is in full force and effect. The Company has no reason to believe that it or any of its subsidiaries will not be able (A) to renew its existing insurance coverage as and when such policies expire or (B) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any of its subsidiaries has been denied any insurance coverage which it has sought or for which it has applied.

(xxxi) **Investment Company Act**. The Company is not required, and upon the issuance and sale of the Securities as herein contemplated and the application of the net proceeds therefrom as described in the Registration Statement, the General Disclosure Package and the Prospectus will not be required, to register as an “investment company” under the Investment Company Act of 1940, as amended (the “1940 Act”).

(xxxii) **Absence of Manipulation**. Neither the Company nor any Affiliate (as defined herein) of the Company has taken, nor will the Company or any Affiliate take, directly or indirectly, any action which is designed, or would reasonably be expected, to cause or result in, or which constitutes, the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities or to result in a violation of Regulation M under the 1934 Act.

(xxxiii) **Foreign Corrupt Practices Act**. None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the “FCPA”), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any “foreign official” (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA and the Company and, to the knowledge of the Company, its affiliates have conducted their businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(xxxiv) **Money Laundering Laws**. The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions to which the Company is subject, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Entity (collectively, the “Money Laundering Laws”); and no action, suit or proceeding by or before any Governmental Entity involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(xxxv) OFAC. None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee, affiliate or representative of the Company or any of its subsidiaries is a Person currently the subject or target of any sanctions administered or enforced by the United States Government, including, without limitation, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the United Nations Security Council ("UNSC"), the European Union, Her Majesty's Treasury ("HMT"), the Swiss Secretariat of Economic Affairs ("SECO"), or other relevant sanctions authority (collectively, "Sanctions"), nor is the Company located, organized or resident in a country or territory that is the subject of Sanctions; and the Company will not directly or indirectly use the proceeds of the sale of the Securities, or lend, contribute or otherwise make available such proceeds to any subsidiaries, joint venture partners or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions or in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions.

(xxxvi) Sales of Reserved Securities. In connection with any offer and sale of Reserved Securities outside the United States, each preliminary prospectus, the Prospectus and any amendment or supplement thereto, at the time it was filed, complied and will comply in all material respects with any applicable laws or regulations of foreign jurisdictions in which the same is distributed. The Company has not offered, or caused the Representatives or Merrill Lynch to offer, Reserved Securities to any person with the specific intent to unlawfully influence (i) a customer or supplier of the Company or any of its affiliates to alter the customer's or supplier's level or type of business with any such entity or (ii) a trade journalist or publication to write or publish favorable information about the Company or any of its affiliates, or their respective businesses or products.

(xxxvii) Lending Relationship. Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, the Company (i) does not have any material lending or other relationship with any bank or lending affiliate of any Underwriter and (ii) does not intend to use any of the proceeds from the sale of the Securities to repay any outstanding debt owed to any affiliate of any Underwriter.

(xxxviii) Statistical and Market-Related Data. Any statistical and market-related data included in the Registration Statement, the General Disclosure Package or the Prospectus are based on or derived from sources that the Company believes, after reasonable inquiry, to be reliable and accurate in all material respects and, to the extent required, the Company has obtained the written consent to the use of such data from such sources.

(xxxix) Cybersecurity. Except as described in the Registration Statement, the General Disclosure Package and the Prospectus, (A) except as would not reasonably be expected to have a material adverse effect on the Company and its subsidiaries, taken as a whole, there has been no security breach or incident, unauthorized access or disclosure, or other compromise of or relating to the Company or its subsidiaries' information technology and computer systems, networks, hardware, software, internet web sites, applications, data, databases and trade secrets used in the business or operations of the Company and its subsidiaries (including the data and personally identifiable or confidential information of their respective customers, employees, suppliers, vendors and any third party data maintained, processed or stored by the Company and its subsidiaries, and any such data processed or stored by third parties on behalf of the Company and its subsidiaries), equipment or technology (collectively, "IT Systems and Data"); (B) neither the Company nor its subsidiaries have been notified in writing of, and each of them have no knowledge of any event or condition that could reasonably be expected to result in, any security breach or incident, unauthorized access or disclosure or other compromise to their IT Systems and Data; (C) the Company and its subsidiaries' IT Systems and Data are adequate for, and

operate and perform in all material respects as required in connection with the operation of the business of the Company and its subsidiaries, free and clear of all bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants, and in accordance with their documentation and functional specifications; (D) the Company and its subsidiaries have implemented, and require that its third party vendors implement, commercially reasonable and appropriate controls, policies, procedures, and technological safeguards designed to maintain and protect the integrity, continuous operation, redundancy and security of their IT Systems and Data, in each case, reasonably consistent with industry standards and practices, or as required by applicable regulatory standards, including commercially reasonable information technology, information security, cyber security and data protection controls, policies and procedures, including oversight, access controls, encryption, technological and physical safeguards and business continuity/disaster recovery and security plans that are designed to protect against and prevent breach, destruction, loss, unauthorized distribution, use, access, disablement, misappropriation or modification, or other compromise or misuse of any personal, personally identifiable, household, sensitive, confidential or regulated data collected, used or otherwise processed in connection with the operation of the Company's and its subsidiaries' businesses; (E) the Company and its subsidiaries are presently and at all times in the last six years have been in compliance in all material respects with all applicable state, federal and international data privacy and security laws, regulations and statutes, including without limitation, the European Union General Data Protection Regulation ("GDPR") (EU 2016/679) and the California Consumer Privacy Act ("CCPA"), and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal and external policies, contractual obligations, and industry standards relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification ("Data Security Obligations"); and (F) neither the Company nor any of its subsidiaries have been in the last five years or presently are under investigation by any governmental or regulatory agency, or have received any notification, claim, complaint, or inquiry from any third party or any governmental or regulatory agency related to whether their collection, processing, use, transfer, import, export, storage, disposal, security and/or disclosure of personal data is in material violation of any Data Security Obligation, or otherwise constitutes an unfair, deceptive or misleading trade practice, and the Company and its subsidiaries are unaware of any other facts that, singly or in the aggregate, would reasonably indicate material non-compliance with any Data Security Obligation by the Company or any of its subsidiaries.

(b) *Officer's Certificates.* Any certificate signed by any officer of the Company or any of its subsidiaries delivered to the Representatives or to counsel for the Underwriters shall be deemed a representation and warranty by the Company to each Underwriter as to the matters covered thereby.

SECTION 2. Sale and Delivery to Underwriters: Closing

(a) *Initial Securities.* On the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company agrees to sell to each Underwriter, severally and not jointly, and each Underwriter, severally and not jointly, agrees to purchase from the Company at the price per share set forth in Schedule A, that number of Initial Securities set forth in Schedule A opposite the name of such Underwriter, plus any additional number of Initial Securities which such Underwriter may become obligated to purchase pursuant to the provisions of Section 10 hereof, subject, in each case, to such adjustments among the Underwriters as the Representatives in their discretion shall make to eliminate any sales or purchases of fractional shares.

(b) *Option Securities.* In addition, on the basis of the representations and warranties herein contained and subject to the terms and conditions herein set forth, the Company hereby grants an option to the Underwriters, severally and not jointly, to purchase up to an additional 1,500,000 shares of Common Stock, as set forth in Schedule A, at the price per share set forth in Schedule A, less an amount per share equal to any dividends or distributions declared by the Company and payable on the Initial Securities but not payable on the Option Securities. The option hereby granted may be exercised for 30 days after the date hereof and may be exercised in whole or in part at any time from time to time upon notice by the Representatives to the Company setting forth the number of Option Securities as to which the several Underwriters are then exercising the option and the time and date of payment and delivery for such Option Securities. Any such time and date of delivery (a "Date of Delivery") shall be determined by the Representatives, but shall not be later than seven full business days after the exercise of said option, nor in any event prior to the Closing Time. If the option is exercised as to all or any portion of the Option Securities, each of the Underwriters, acting severally and not jointly, will purchase that proportion of the total number of Option Securities then being purchased which the number of Initial Securities set forth in Schedule A opposite the name of such Underwriter bears to the total number of Initial Securities, subject, in each case, to such adjustments as the Representatives in their discretion shall make to eliminate any sales or purchases of fractional shares.

(c) *Payment.* Payment of the purchase price for, and delivery of certificates or security entitlements for, the Initial Securities shall be made at the offices of Davis Polk & Wardwell LLP, or at such other place as shall be agreed upon by the Representatives and the Company at 9:00 A.M. (New York City time) on the second (third, if the pricing occurs after 4:30 P.M. (New York City time) on any given day) business day after the date hereof (unless postponed in accordance with the provisions of Section 10), or such other time not later than ten business days after such date as shall be agreed upon by the Representatives and the Company (such time and date of payment and delivery being herein called "Closing Time").

In addition, in the event that any or all of the Option Securities are purchased by the Underwriters, payment of the purchase price for, and delivery of certificates or security entitlements for, such Option Securities shall be made at the above-mentioned offices, or at such other place as shall be agreed upon by the Representatives and the Company on each Date of Delivery as specified in the notice from the Representatives to the Company.

Payment shall be made to the Company by wire transfer of immediately available funds to bank accounts designated by the Company against delivery to the Representatives for the respective accounts of the Underwriters of certificates or security entitlements for the Securities to be purchased by them. It is understood that each Underwriter has authorized the Representatives, for its account, to accept delivery of, receipt for, and make payment of the purchase price for, the Initial Securities and the Option Securities, if any, which it has agreed to purchase. Each of the Representatives, individually and not as a representative of the Underwriters, may (but shall not be obligated to) make payment of the purchase price for the Initial Securities or the Option Securities, if any, to be purchased by any Underwriter whose funds have not been received by the Closing Time or the relevant Date of Delivery, as the case may be, but such payment shall not relieve such Underwriter from its obligations hereunder.

SECTION 3. Covenants of the Company. The Company covenants with each Underwriter as follows:

(a) *Compliance with Securities Regulations and Commission Requests.* The Company, subject to Section 3(b), will comply with the requirements of Rule 430A, and will notify the Representatives promptly, and confirm the notice in writing (which may be by electronic mail), (i) when any post-effective amendment to the Registration Statement shall become effective or any amendment or supplement to the Prospectus shall have been filed, (ii) of the receipt of any comments from the Commission, (iii) of any request by the Commission for any amendment to the Registration Statement or

any amendment or supplement to the Prospectus or for additional information, (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or any post-effective amendment or of any order preventing or suspending the use of any preliminary prospectus or the Prospectus, or of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, or, if the Company gains knowledge of such proceeding, of the initiation or threatening of any proceedings for any of such purposes or of any examination pursuant to Section 8(d) or 8(e) of the 1933 Act concerning the Registration Statement and (v) if the Company becomes the subject of a proceeding under Section 8A of the 1933 Act in connection with the offering of the Securities, if the Company gains knowledge of such proceeding. The Company will effect all filings required under Rule 424(b), in the manner and within the time period required by Rule 424(b) (without reliance on Rule 424(b)(8)), and will take such steps as it deems necessary to ascertain promptly whether the form of prospectus transmitted for filing under Rule 424(b) was received for filing by the Commission and, in the event that it was not, it will promptly file such prospectus. The Company will use reasonable best efforts to prevent the issuance of any stop order, prevention or suspension and, if any such order is issued, to obtain the lifting thereof as soon as reasonably practicable.

(b) *Continued Compliance with Securities Laws.* The Company will comply with the 1933 Act and the 1933 Act Regulations so as to permit the completion of the distribution of the Securities as contemplated in this Agreement and in the Registration Statement, the General Disclosure Package and the Prospectus. If at any time when a prospectus relating to the Securities is (or, but for the exception afforded by Rule 172 of the 1933 Act Regulations (“Rule 172”), would be) required by the 1933 Act to be delivered in connection with sales of the Securities, any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of counsel for the Underwriters or for the Company, to (i) amend the Registration Statement in order that the Registration Statement will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) amend or supplement the General Disclosure Package or the Prospectus in order that the General Disclosure Package or the Prospectus, as the case may be, will not include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser or (iii) amend the Registration Statement or amend or supplement the General Disclosure Package or the Prospectus, as the case may be, in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations, the Company will promptly (A) give the Representatives notice of such event, (B) prepare any amendment or supplement as may be necessary to correct such statement or omission or to make the Registration Statement, the General Disclosure Package or the Prospectus comply with such requirements and, a reasonable amount of time prior to any proposed filing or use, furnish the Representatives with copies of any such amendment or supplement and (C) file with the Commission any such amendment or supplement; provided that the Company shall not file or use any such amendment or supplement to which the Representatives or counsel for the Underwriters shall reasonably object in a timely manner; and provided, further, that the Representatives shall be deemed to have received notice without any required action by the Company pursuant to (A) herein if any such determination was made by counsel for the Underwriters. The Company will furnish to the Underwriters such number of copies of such amendment or supplement as the Underwriters may reasonably request.

(c) *Delivery of Registration Statements.* The Company has furnished or will deliver to the Representatives and counsel for the Underwriters, without charge, signed copies of the Registration Statement as originally filed and each amendment thereto (including exhibits filed therewith) and signed copies of all consents and certificates of experts, and will also deliver to the Representatives, without charge, a conformed copy of the Registration Statement as originally filed and each amendment thereto (without exhibits) for each of the Underwriters. The copies of the Registration Statement and each amendment thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(d) *Delivery of Prospectuses.* The Company has delivered to each Underwriter, without charge, as many copies of each preliminary prospectus as such Underwriter reasonably requested, and the Company hereby consents to the use of such copies for purposes permitted by the 1933 Act. The Company will furnish to each Underwriter, without charge, during the period when a prospectus relating to the Securities is (or, but for the exception afforded by Rule 172, would be) required to be delivered under the 1933 Act, such number of copies of the Prospectus (as amended or supplemented) as such Underwriter may reasonably request. The Prospectus and any amendments or supplements thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(e) *Blue Sky Qualifications.* If required by applicable law, the Company will use its reasonable best efforts, in cooperation with the Underwriters, to qualify the Securities for offering and sale under the applicable securities laws of such states and other jurisdictions (domestic or foreign) as the Representatives may reasonably designate and to maintain such qualifications in effect so long as required to complete the distribution of the Securities; provided, however, that the Company shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

(f) *Rule 158.* The Company will timely file such reports pursuant to the 1934 Act as are necessary in order to make generally available to its securityholders as soon as practicable an earnings statement for the purposes of, and to provide to the Underwriters the benefits contemplated by, the last paragraph of Section 11(a) of the 1933 Act.

(g) *Use of Proceeds.* The Company will use the net proceeds received by it from the sale of the Securities in the manner specified in the Registration Statement, the General Disclosure Package and the Prospectus under "Use of Proceeds."

(h) *Listing.* The Company will use its best efforts to effect and maintain the listing of the Common Stock (including the Securities on the New York Stock Exchange).

(i) *Restriction on Sale of Securities.* During a period of 180 days from the date of the Prospectus, the Company will not, without the prior written consent of BofA, (i) directly or indirectly, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock or file or confidentially submit any registration statement under the 1933 Act with respect to any of the foregoing or (ii) enter into any swap or any other agreement or any transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of the Common Stock, whether any such swap or transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or other securities, in cash or otherwise. The foregoing sentence shall not apply to (A) the Securities to be sold hereunder, (B) any shares of Common Stock issued by the Company upon the exercise of an option, warrant, or vesting of any restricted stock units, or the conversion of a security outstanding on the date hereof and described in the Registration Statement, the General Disclosure Package and the Prospectus, (C) any shares of Common Stock issued or options to purchase Common Stock or restricted stock units covering shares of Common Stock granted pursuant to existing employee benefit plans or equity incentive plans of the Company described in the Registration Statement, the General Disclosure Package and the Prospectus, (D) any shares of Common Stock issued, options to purchase shares of Common Stock granted, or restricted stock units covering shares of Common Stock granted pursuant to any non-employee director stock plan or dividend reinvestment plan described in the Registration Statement, the General Disclosure Package and the Prospectus, (E) the filing by the Company of a registration statement

on Form S-8 or any successor form thereto with respect to the registration of securities to be offered under any employee benefit or equity incentive plans of the Company described in the Registration Statement, the General Disclosure Package and the Prospectus, (F) the sale or issuance of or entry into an agreement to sell or issue shares of Common Stock or other securities issued in connection with any (1) merger, (2) acquisition of securities, businesses, properties or other assets, (3) joint venture or (4) strategic alliance or relationship; provided, that the aggregate number of shares issued pursuant to this clause (F) shall not exceed 10.0% of the total number of outstanding shares of Common Stock immediately following the issuance and sale of the Securities; provided further that the recipient of any such shares of Common Stock or securities issued pursuant to clauses (B), (C), (D) and (F) during the 180-day restricted period shall execute and deliver to the Representatives, on or prior to the issuance of such securities, a lock-up agreement substantially in the form set forth in Exhibit A hereto.

(j) If BofA, in its discretion, agrees to release or waive the restrictions set forth in lock-up agreement described in Section 5(n) hereof for an officer or director of the Company and provides the Company with notice of the impending release or waiver at least three business days before the effective date of the release or waiver, the Company agrees to announce the impending release or waiver by a press release substantially in the form of Exhibit B hereto through a major news service (or in a publicly filed registration statement in connection with a secondary offering) at least two business days before the effective date of the release or waiver.

(k) *Reporting Requirements.* The Company, during the period when a Prospectus relating to the Securities is (or, but for the exception afforded by Rule 172, would be) required to be delivered under the 1933 Act, will file all documents required to be filed with the Commission pursuant to the 1934 Act within the time periods required by the 1934 Act and 1934 Act Regulations. Additionally, the Company shall report the use of proceeds from the issuance of the Shares as may be required under Rule 463 under the 1933 Act.

(l) *Issuer Free Writing Prospectuses.* The Company agrees that, unless it obtains the prior written consent of the Representatives, it will not make any offer relating to the Securities that would constitute an Issuer Free Writing Prospectus or that would otherwise constitute a “free writing prospectus,” or a portion thereof, required to be filed by the Company with the Commission or retained by the Company under Rule 433; provided that the Representatives will be deemed to have consented to the Issuer Free Writing Prospectuses listed on Schedule B-2 hereto and any “road show for an offering that is a written communication” within the meaning of Rule 433(d)(8)(i) that has been reviewed by the Representatives. The Company represents that it has treated or agrees that it will treat each such free writing prospectus consented to, or deemed consented to, by the Representatives as an “issuer free writing prospectus,” as defined in Rule 433, and that it has complied and will comply with the applicable requirements of Rule 433 with respect thereto, including timely filing with the Commission where required, legending and record keeping. If at any time following issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information contained in the Registration Statement, any preliminary prospectus or the Prospectus or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company will promptly notify the Representatives and will promptly amend or supplement, at its own expense, such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission.

(m) *Certification Regarding Beneficial Owners.* The Company will deliver to the Representatives, on the date of execution of this Agreement, a properly completed and executed Certification Regarding Beneficial Owners of Legal Entity Customers, together with copies of identifying documentation, and the Company undertakes to provide such additional supporting documentation as the Representatives may reasonably request in connection with the verification of the foregoing certification.

(n) *Compliance with FINRA Rules.* The Company hereby agrees that it will ensure that the Reserved Securities will be restricted as required by FINRA or the FINRA rules from sale, transfer, assignment, pledge or hypothecation for a period of three months following the date of this Agreement. Merrill Lynch will notify the Company as to which persons will need to be so restricted. At the request of the Underwriters or Merrill Lynch, the Company will direct the transfer agent to place a stop transfer restriction upon such securities for such period of time. Should the Company release, or seek to release, from such restrictions any of the Reserved Securities, the Company agrees to reimburse the Underwriters and Merrill Lynch for any reasonable expenses (including, without limitation, legal expenses) they incur in connection with such release.

(o) *Testing-the-Waters Materials.* If at any time following the distribution of any Written Testing-the-Waters Communication there occurred or occurs an event or development as a result of which such Written Testing-the-Waters Communication included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at that subsequent time, not misleading, the Company will promptly notify the Representatives and will promptly amend or supplement, at its own expense, such Written Testing-the-Waters Communication to eliminate or correct such untrue statement or omission.

(p) *Emerging Growth Company Status.* The Company will promptly notify the Representatives if the Company ceases to be an Emerging Growth Company at any time prior to the later of (i) completion of the distribution of the Securities within the meaning of the 1933 Act and (ii) completion of the 180-day restricted period referred to in Section 3(i).

SECTION 4. Payment of Expenses.

(a) *Expenses.* The Company covenants and agrees with the Representatives that the Company will pay or cause to be paid all expenses incident to the performance of its obligations under this Agreement, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits) as originally filed and each amendment thereto, (ii) the preparation, printing and delivery to the Underwriters of copies of each preliminary prospectus, each Issuer Free Writing Prospectus and the Prospectus and any amendments or supplements thereto and the reasonable costs associated with electronic delivery of any of the foregoing by the Underwriters to investors, (iii) the preparation, issuance and delivery of the certificates or security entitlements for the Securities to the Underwriters, including any stock or other transfer taxes and any stamp or other duties payable upon the sale, issuance or delivery of the Securities to the Underwriters, (iv) the fees and disbursements of the Company's counsel, accountants and other advisors, (v) the qualification of the Securities under securities laws in accordance with the provisions of Section 3(e) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection therewith and in connection with the preparation of the Blue Sky Survey and any supplement thereto, (vi) the fees and expenses of any transfer agent or registrar for the Securities, (vii) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the marketing of the Securities, including without limitation, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged by the Company or with the Company's prior written consent (which may be by electronic mail) in connection with the road show presentations, travel and lodging expenses of the representatives and officers of the Company and any such consultants, and 50% of the cost of aircraft and other transportation chartered in connection with the road show (it being understood the Underwriters will pay the other 50%), (viii) the filing fees incident to, and the reasonable

fees and disbursements of counsel to the Underwriters in connection with, the review by FINRA of the terms of the sale of the Securities, it being understood that the payment of such reasonable fees and expenses, together with the legal fees of counsel described in clause (v), shall not exceed \$50,000, (ix) the fees and expenses incurred in connection with the listing of the Securities on the New York Stock Exchange, (x) the costs and expenses (including, without limitation, any damages or other amounts payable in connection with legal or contractual liability) associated with the reforming of any contracts for sale of the Securities made by the Underwriters caused by a breach of the representation contained in the third sentence of Section 1(a)(ii) and (xi) all costs and expenses of the Underwriters and Merrill Lynch, including the fees and disbursements of counsel for the Underwriters and counsel for Merrill Lynch, in connection with matters related to the Reserved Securities which are designated by the Company for sale to Invitees. It is further understood, however, that except as provided in this Section 4 and Section 6 hereof, the Underwriters will pay all of their own costs and expenses, including the fees and disbursements of their counsel, stock transfer taxes payable on resale of any of the Securities by them and any advertising expenses connected with any offers they may make and lodging expenses incurred by them in connection with any road show, as applicable.

(b) *Termination of Agreement.* If this Agreement is terminated by the Representatives in accordance with the provisions of Section 5, Section 9(a)(i) or (iii) or Section 10 hereof, the Company shall reimburse the Underwriters for all of their reasonable and documented out-of-pocket expenses actually incurred, including the reasonable fees and disbursements of counsel for the Underwriters; provided that in the case of a termination pursuant to Section 10, the Company shall have no obligation to reimburse a defaulting Underwriter for such costs and expenses.

SECTION 5. Conditions of Underwriters' Obligations. The obligations of the several Underwriters hereunder are subject to the accuracy of the representations and warranties of the Company contained herein or in certificates of any officer of the Company or any of its subsidiaries delivered pursuant to the provisions hereof, to the performance by the Company of its respective covenants and other obligations hereunder, and to the following further conditions:

(a) *Effectiveness of Registration Statement; Rule 430A Information.* The Registration Statement, including any Rule 462(b) Registration Statement, has become effective and, at the Closing Time, no stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto has been issued under the 1933 Act, no order preventing or suspending the use of any preliminary prospectus or the Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to the Company's knowledge, contemplated; and the Company has complied with each request (if any) from the Commission for additional information. A prospectus containing the Rule 430A Information shall have been filed with the Commission in the manner and within the time frame required by Rule 424(b) without reliance on Rule 424(b)(8) or a post-effective amendment providing such information shall have been filed with, and declared effective by, the Commission in accordance with the requirements of Rule 430A.

(b) *Opinion of Counsel for Company.* At the Closing Time, the Representatives shall have received an opinion, dated the Closing Time, of Kirkland & Ellis LLP, counsel for the Company, in form and substance reasonably satisfactory to the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters, to the effect as the Underwriters may reasonably request.

(c) *Opinion of Australian Counsel for Company.* At the Closing Time, the Representatives shall have received an opinion, dated the Closing Time, of HWL Ebsworth, Australian counsel for the Company, in form and substance reasonably satisfactory to the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters, to the effect the Underwriters may reasonably request.

(d) *Opinion of Counsel for Underwriters.* At the Closing Time, the Representatives shall have received an opinion, dated the Closing Time, of Davis Polk & Wardwell LLP, counsel for the Underwriters in form and substance reasonably satisfactory to the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters. In giving such opinion such counsel may rely, as to all matters governed by the laws of jurisdictions other than the law of the State of New York, the General Corporation Law of the State of Delaware and the federal securities laws of the United States, upon the opinions of counsel satisfactory to the Representatives. Such counsel may also state that, insofar as such opinion involves factual matters, they have relied, to the extent they deem proper, upon certificates of officers and other representatives of the Company and its subsidiaries and certificates of public officials.

(e) *Officers' Certificate.* At the Closing Time, there shall not have been, since the date hereof or since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, and the Representatives shall have received a certificate of the Chief Executive Officer or the President of the Company and of the chief financial or chief accounting officer of the Company, dated the Closing Time, to the effect that (i) there has been no such material adverse change, (ii) the representations and warranties of the Company in this Agreement are true and correct with the same force and effect as though expressly made at and as of the Closing Time, (iii) the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied as set forth herein at or prior to the Closing Time, and (iv) no stop order suspending the effectiveness of the Registration Statement under the 1933 Act has been issued, no order preventing or suspending the use of any preliminary prospectus or the Prospectus has been issued and no proceedings for any of those purposes have been instituted or are pending or, to their knowledge, contemplated.

(f) *Accountant's Comfort Letter.* At the time of the execution of this Agreement, the Representatives shall have received from PricewaterhouseCoopers LLP letters, dated such date, in form and substance satisfactory to the Representatives, together with signed or reproduced copies of such letters for each of the other Underwriters containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement, the General Disclosure Package and the Prospectus.

(g) *Bring-down Comfort Letter.* At the Closing Time, the Representatives shall have received from PricewaterhouseCoopers LLP letters, dated as of the Closing Time, to the effect that they reaffirm the statements made in the letters furnished pursuant to subsection (h) of this Section, except that the specified date referred to shall be a date not more than three business days prior to the Closing Time.

(h) *Certificate of Chief Financial Officer.* At the time of the execution of this Agreement, the Representatives shall have received a certificate dated the date hereof and signed by the chief financial officer of the Company, in his capacity as such, with respect to certain financial and accounting information contained in the Registration Statement, the General Disclosure Package and the Prospectus, in form and substance reasonably satisfactory to the Representatives.

(j) *Approval of Listing.* At the Closing Time, the Securities shall have been approved for listing on the New York Stock Exchange, subject only to official notice of issuance.

(k) *No Objection.* FINRA has confirmed that it has not raised any objection with respect to the fairness and reasonableness of the underwriting terms and arrangements relating to the offering of the Securities.

(l) *Lock-up Agreements.* At the date of this Agreement, the Representatives shall have received an agreement substantially in the form of Exhibit A hereto signed by the persons listed on Schedule C hereto.

(m) *Conditions to Purchase of Option Securities.* In the event that the Underwriters exercise their option provided in Section 2(b) hereof to purchase all or any portion of the Option Securities, the representations and warranties of the Company contained herein and the statements in any certificates furnished by the Company and any of its subsidiaries hereunder shall be true and correct as of each Date of Delivery and, at the relevant Date of Delivery, the Representatives shall have received:

(i) Officers' Certificate. A certificate, dated such Date of Delivery, of the Chief Executive Officer, President or a Vice President of the Company and of the chief financial or chief accounting officer of the Company confirming that the certificate delivered at the Closing Time pursuant to Section 5(e) hereof remains true and correct as of such Date of Delivery.

(ii) Opinion of Counsel for Company. If requested by the Representatives, an opinion of Kirkland & Ellis LLP, counsel for the Company, together with the opinion of HWL Ebsworth, Australian counsel for the Company, each in form and substance reasonably satisfactory to the Underwriters, dated such Date of Delivery, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 5(b) hereof.

(v) Opinion of Counsel for Underwriters. If requested by the Representatives, an opinion of Davis Polk & Wardwell LLP, counsel for the Underwriters, dated such Date of Delivery, relating to the Option Securities to be purchased on such Date of Delivery and otherwise to the same effect as the opinion required by Section 5(d) hereof.

(vi) Bring-down Comfort Letter. If requested by the Representatives, a letter from PricewaterhouseCoopers LLP, in form and substance reasonably satisfactory to the Representatives and dated such Date of Delivery, substantially in the same form and substance as the letter furnished to the Representatives pursuant to Section 5(g) hereof, except that the "specified date" in the letter furnished pursuant to this paragraph shall be a date not more than three business days prior to such Date of Delivery.

(vii) Bring-down Certificate of Chief Financial Officer. If requested by the Representatives, a certificate from the chief financial officer of the Company, dated the Option Closing Date, substantially in the same form and substance as the certificate required by Section 5(h) hereof;

(n) *Additional Documents.* At the Closing Time and at each Date of Delivery (if any) counsel for the Underwriters shall have been furnished with such customary documents and opinions as they may reasonably require for the purpose of enabling them to pass upon the issuance and sale of the Securities as herein contemplated, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Securities as herein contemplated shall be reasonably satisfactory in form and substance to the Representatives and counsel for the Underwriters.

(o) *Termination of Agreement.* If any condition specified in this Section shall not have been fulfilled when and as required to be fulfilled, this Agreement, or, in the case of any condition to the purchase of Option Securities on a Date of Delivery which is after the Closing Time, the obligations of the several Underwriters to purchase the relevant Option Securities, may be terminated by the Representatives by notice to the Company at any time at or prior to Closing Time or such Date of Delivery, as the case may be, and such termination shall be without liability of any party to any other party except as provided in Section 4 and except that Sections 1, 6, 7, 8, 14, 15, 16 and 17 shall survive any such termination and remain in full force and effect.

SECTION 6. Indemnification.

(a) *Indemnification of Underwriters.* The Company agrees to indemnify and hold harmless each Underwriter, its affiliates (as such term is defined in Rule 501(b) under the 1933 Act (each, an “Affiliate”)), its selling agents and each person, if any, who controls any Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, liability, claim, damage and reasonable and documented out-of-pocket expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), including the Rule 430A Information, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact included (A) in any preliminary prospectus, any Issuer Free Writing Prospectus, any Written Testing-the-Waters Communication, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto), or (B) in any materials or information provided to investors by, or with the approval of, the Company in connection with the marketing of the offering of the Securities (“Marketing Materials”), including any roadshow or investor presentations made to investors by the Company (whether in person or electronically), or the omission or alleged omission in any preliminary prospectus, Issuer Free Writing Prospectus, any Written Testing-the-Waters Communication, Prospectus or in any Marketing Materials of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and reasonable and documented out-of-pocket expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that (subject to Section 6(e) below) any such settlement is effected with the written consent of the Company;

(iii) against any and all reasonable and documented out-of-pocket expense whatsoever, as incurred (including the reasonable and documented fees and disbursements of counsel chosen by the Representatives, provided, however, that the Company shall not be liable for the expenses of more than one separate counsel in the aggregate for all Underwriters (in addition to a single local counsel)), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in the Registration Statement (or any amendment thereto), including the Rule 430A Information, the General Disclosure Package, any preliminary prospectus, any Issuer Free Writing Prospectus, any Written Testing-the-Water Communications or the Prospectus (or any amendment or supplement thereto) or any Marketing Materials, including any roadshow or investor presentations made to investors by the Company (wither in person or electronically) in reliance upon and in conformity with the Underwriter Information.

(c) *Indemnification of Company, Directors and Officers.* Each Underwriter severally agrees to indemnify and hold harmless the Company, its directors, each of its officers who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act, against any and all loss, liability, claim, damage and reasonable and documented out-of-pocket expense described in the indemnity contained in subsection (a) of this Section, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), including the Rule 430A Information, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus, any Written Testing-the-Waters Communication or any or any Marketing Materials, including any roadshow or investor presentations made to investors by the Company (whether in person or electronically) in reliance upon and in conformity with the Underwriter Information.

(d) *Actions against Parties; Notification.* Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In the case of parties indemnified pursuant to Section 6(a) above, counsel to the indemnified parties shall be selected by the Representatives, and, in the case of parties indemnified pursuant to Section 6(b) above, counsel to the indemnified parties shall be selected by the Company. An indemnifying party may participate at its own expense in the defense of any such action; provided, however, that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. In no event shall the indemnifying parties be liable for fees and the reasonable and documented out-of-pocket expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 6 or Section 7 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(e) *Settlement without Consent if Failure to Reimburse.* If at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and the reasonable and documented out-of-pocket expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 6(a)(ii) or settlement of any claim in connection with any violation referred to in Section 6(f) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

(f) *Indemnification for Reserved Securities.* In connection with the offer and sale of the Reserved Securities, the Company agrees to indemnify and hold harmless the Underwriters, their Affiliates (including Merrill Lynch) and selling agents and each person, if any, who controls any Underwriter or Merrill Lynch within the meaning of either Section 15 of the 1933 Act or Section 20 of the 1934 Act, from and against any and all loss, liability, claim, damage and expense (including, without limitation, any legal or other expenses reasonably incurred in connection with defending, investigating or settling any such action or claim), as incurred, (i) arising out of the violation of any applicable laws or regulations of foreign jurisdictions where Reserved Securities have been offered, (ii) arising out of any untrue statement or alleged untrue statement of a material fact contained in any material prepared by or with the consent of the Company for distribution to Invitees in connection with the offering of the Reserved Securities or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, (iii) caused by the failure of any Invitee to pay for and accept delivery of Reserved Securities which have been orally confirmed for purchase by any Invitee by 11:59 P.M. (New York City time) on the date of the Agreement or (iv) related to, or arising out of or in connection with, the offering of the Reserved Securities.

(g) *Other Agreements with Respect to Indemnification.* The provisions of this Section shall not affect any agreement among the Company with respect to indemnification.

SECTION 7. Contribution. If the indemnification provided for in Section 6 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, from the offering of the Securities pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, on the one hand, and of the Underwriters, on the other hand, in connection with the statements or omissions, or in connection with any violation of the nature referred to in Section 6(f) hereof, which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, in connection with the offering of the Securities pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Securities pursuant to this Agreement (after deducting underwriting discounts and commissions but before deducting expenses) received by the Company, on the one hand, and the total underwriting discounts and commissions received by the Underwriters, on the other hand, in each case as set forth on the cover of the Prospectus, bear to the aggregate initial public offering price of the Securities as set forth on the cover of the Prospectus.

The relative fault of the Company, on the one hand, and the Underwriters, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission or any violation of the nature referred to in Section 6(e) hereof.

The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 7. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 7 shall be deemed to include any legal or other documented expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 7, no Underwriter shall be required to contribute any amount in excess of the underwriting commissions received by such Underwriter in connection with the Shares underwritten by it and distributed to the public.

No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 7, each person, if any, who controls an Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and each Underwriter's Affiliates and selling agents shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company. The Underwriters' respective obligations to contribute pursuant to this Section 7 are several in proportion to the number of Initial Securities set forth opposite their respective names in Schedule A hereto and not joint.

SECTION 8. Representations, Warranties and Agreements to Survive All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Company or any of its subsidiaries submitted pursuant hereto, shall remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of any Underwriter or its Affiliates or selling agents, any person controlling any Underwriter, its officers or directors, or any person controlling the Company and (ii) delivery of and payment for the Securities.

SECTION 9. Termination of Agreement

(a) *Termination.* The Representatives may terminate this Agreement, by notice to the Company, at any time at or prior to the Closing Time (i) if there has been, in the judgment of the Representatives, since the time of execution of this Agreement or since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, or (ii) if there has occurred any material adverse change in the financial markets in the United States or the international financial markets, any outbreak of hostilities or escalation thereof or other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of

which is such as to make it, in the judgment of the Representatives, impracticable or inadvisable to proceed with the completion of the offering or to enforce contracts for the sale of the Securities, or (iii) if trading in any securities of the Company has been suspended or materially limited by the Commission or the New York Stock Exchange, or (iv) if trading generally on the NYSE MKT or the New York Stock Exchange or in the Nasdaq Global Market has been suspended or materially limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by any of said exchanges or by order of the Commission, FINRA or any other governmental authority, or (v) a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States or with respect to Clearstream or Euroclear systems in Europe, or (vi) if a banking moratorium has been declared by either Federal or New York authorities.

(b) *Liabilities.* If this Agreement is terminated pursuant to this Section, such termination shall be without liability of any party to any other party except as provided in Section 4 hereof, and provided further that Sections 1, 6, 7, 8, 14, 15, 16 and 17 shall survive such termination and remain in full force and effect.

SECTION 10. Default by One or More of the Underwriters. If one or more of the Underwriters shall fail at the Closing Time or a Date of Delivery to purchase the Securities which it or they are obligated to purchase under this Agreement (the "Defaulted Securities"), the Representatives shall have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriters reasonably satisfactory to the Company, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the Representatives shall not have completed such arrangements within such 24-hour period, then the Company shall be entitled to a further period of 24 hours within which to procure other persons reasonably satisfactory to the Representatives to purchase Defaulted Securities upon such terms. After giving effect to any arrangement for the purchase of Defaulted Securities by the Representatives and the Company as provided in the preceding sentence:

(i) if the number of Defaulted Securities does not exceed 10% of the number of Securities to be purchased on such date, each of the non-defaulting Underwriters shall be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligations of all non-defaulting Underwriters, or

(ii) if the number of Defaulted Securities exceeds 10% of the number of Securities to be purchased on such date, this Agreement or, with respect to any Date of Delivery which occurs after the Closing Time, the obligation of the Underwriters to purchase, and the Company to sell, the Option Securities to be purchased and sold on such Date of Delivery shall terminate without liability on the part of any non-defaulting Underwriter.

No action taken pursuant to this Section shall relieve any defaulting Underwriter from liability in respect of its default.

In the event of any such default which does not result in a termination of this Agreement or, in the case of a Date of Delivery which is after the Closing Time, which does not result in a termination of the obligation of the Underwriters to purchase and the Company to sell the relevant Option Securities, as the case may be, either the (i) Representatives or (ii) the Company shall have the right to postpone Closing Time or the relevant Date of Delivery, as the case may be, for a period not exceeding seven days in order to effect any required changes in the Registration Statement, the General Disclosure Package or the Prospectus or in any other documents or arrangements. As used herein, the term "Underwriter" includes any person substituted for an Underwriter under this Section 10.

SECTION 11. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be directed to BofA at One Bryant Park, New York, New York 10036, attention of Syndicate Department (facsimile: (646) 855-3073), with a copy to ECM Legal (facsimile: (212) 230-8730); CS at Eleven Madison Avenue, New York, New York 10010-3629, (facsimile: (212) 325-4296), Attention: IB-CM&A Legal; Jefferies at 520 Madison Avenue, New York, New York 10022, Attention: General Counsel; notices to the Company shall be directed to it at 9255 Sunset Blvd, Suite 11, West Hollywood, CA 90059, Attention: Jill Ramsey.

SECTION 12. No Advisory or Fiduciary Relationship. The Company acknowledges and agrees that (a) the purchase and sale of the Securities pursuant to this Agreement, including the determination of the initial public offering price of the Securities and any related discounts and commissions, is an arm's-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other hand, and does not constitute a recommendation, investment advice, or solicitation of any action by the Underwriters, (b) in connection with the offering of the Securities and the process leading thereto, each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Company, any of its subsidiaries or their respective stockholders, creditors, employees or any other party, (c) no Underwriter has assumed or will assume an advisory or fiduciary responsibility in favor of the Company with respect to the offering of the Securities or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company or any of its subsidiaries on other matters) and no Underwriter has any obligation to the Company with respect to the offering of the Securities except the obligations expressly set forth in this Agreement, (d) the Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of each of the Company, (e) the Underwriters have not provided any legal, accounting, regulatory, investment or tax advice with respect to the offering of the Securities and the Company has consulted its own respective legal, accounting, financial, regulatory, investment and tax advisors to the extent it deemed appropriate and (f) none of the activities of the Underwriters in connection with the transactions contemplated herein constitutes a recommendation, investment advice or solicitation of any action by the Underwriters with respect to any entity or natural person.

SECTION 13. Recognition of the U.S. Special Resolution Regimes

(a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

For purposes of this Section 13, a "BHC Act Affiliate" has the meaning assigned to the term "affiliate" in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k). "Covered Entity" means any of the following: (i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b). "Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance

with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable. “U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

SECTION 14. Parties. This Agreement shall each inure to the benefit of and be binding upon the Underwriters and the Company and their respective successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Underwriters and the Company and their respective successors and the controlling persons and officers and directors referred to in Sections 6 and 7 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Underwriters and the Company and their respective successors, and said controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Securities from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

SECTION 15. Trial by Jury. The Company (on its behalf and, to the extent permitted by applicable law, on behalf of its stockholders and affiliates), and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

SECTION 16. GOVERNING LAW. THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF, THE STATE OF NEW YORK WITHOUT REGARD TO ITS CHOICE OF LAW PROVISIONS.

SECTION 17. Consent to Jurisdiction; Waiver of Immunity. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby (“Related Proceedings”) shall be instituted in (i) the federal courts of the United States of America located in the City and County of New York, Borough of Manhattan or (ii) the courts of the State of New York located in the City and County of New York, Borough of Manhattan (collectively, the “Specified Courts”), and each party irrevocably submits to the exclusive jurisdiction (except for proceedings instituted in regard to the enforcement of a judgment of any such court (a “Related Judgment”), as to which such jurisdiction is non-exclusive) of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail to such party’s address set forth above shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such suit, action or other proceeding brought in any such court has been brought in an inconvenient forum.

SECTION 18. TIME. TIME SHALL BE OF THE ESSENCE OF THIS AGREEMENT. EXCEPT AS OTHERWISE SET FORTH HEREIN, SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME.

SECTION 19. Counterparts and Electronic Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement. Electronic signatures complying with the New York Electronic Signatures and Records Act (N.Y. State Tech. §§ 301-309), as amended from time to time, or other applicable law will be deemed original signatures for purposes of this Agreement. Transmission by

telecopy, electronic mail or other transmission method of an executed counterpart of this Agreement will constitute due and sufficient delivery of such counterpart. Each party not located in the United States irrevocably appoints CT Corporation System as its agent to receive service of process or other legal summons for purposes of any such suit, action or proceeding that may be instituted in any state or federal court in the City and County of New York. With respect to any Related Proceeding, each party irrevocably waives, to the fullest extent permitted by applicable law, all immunity (whether on the basis of sovereignty or otherwise) from jurisdiction, service of process, attachment (both before and after judgment) and execution to which it might otherwise be entitled in the Specified Courts, and with respect to any Related Judgment, each party waives any such immunity in the Specified Courts or any other court of competent jurisdiction, and will not raise or claim or cause to be pleaded any such immunity at or in respect of any such Related Proceeding or Related Judgment, including, without limitation, any immunity pursuant to the United States Foreign Sovereign Immunities Act of 1976, as amended.

SECTION 20. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement among the Underwriters and the Company in accordance with its terms.

Very truly yours,

A.K.A. BRANDS HOLDING CORP.

By: /s/ Jill Ramsey

Name: Jill Ramsey

Title: Chief Executive Officer

CONFIRMED AND ACCEPTED,
as of the date first above written:

BOFA SECURITIES, INC.
CREDIT SUISSE SECURITIES (USA) LLC
JEFFERIES LLC

By: BOFA SECURITIES, INC.

By /s/ Juliann Burkhardt

Authorized Signatory

By: CREDIT SUISSE SECURITIES (USA) LLC

By /s/ Carrie Barber

Authorized Signatory

Carrie Barber
Managing Director

By: JEFFERIES LLC

By /s/ Mike Bauer

Authorized Signatory

[Signature Page to Underwriting Agreement]

For themselves and as Representatives of the other Underwriters named in Schedule A hereto.

**AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
A.K.A. BRANDS HOLDING CORP.**

Ciaran Long, being the Chief Financial Officer of a.k.a. Brands Holding Corp., a corporation duly organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Corporation"), DOES HEREBY CERTIFY as follows:

FIRST: The present name of the Corporation is a.k.a. Brands Holding Corp. The Corporation was incorporated by the filing of its original Certificate of Incorporation with the Delaware Secretary of State on May 19, 2021 (the "Certificate of Incorporation").

SECOND: The Board of Directors of the Corporation, pursuant to a unanimous written consent, adopted resolutions authorizing the Corporation to amend, integrate and restate the Certificate of Incorporation of the Corporation in its entirety to read as set forth in Exhibit A attached hereto and made a part hereof (the "Restated Certificate").

THIRD: The Restated Certificate restates and integrates and further amends the Certificate of Incorporation.

FOURTH: The Restated Certificate was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware and by the written consent of its stockholders in accordance with Section 228 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, a.k.a. Brands Holding Corp, has caused this Amended and Restated Certificate of Incorporation to be executed by its duly authorized officer on this 21st day of September, 2021.

A.K.A. BRANDS HOLDING CORP.

By: /s/ Ciaran Long

Name: Ciaran Long

Title: Chief Financial Officer

EXHIBIT A

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION
A.K.A. BRANDS HOLDING CORP.

ARTICLE ONE

The name of the corporation is a.k.a. Brands Holding Corp, (the “Corporation”).

ARTICLE TWO

The address of the Corporation’s registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE THREE

The nature and purpose of the business of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (“DGCL”).

ARTICLE FOUR

Section 1. Authorized Shares. The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 550,000,000 shares, consisting of two classes as follows:

1. 50,000,000 shares of Preferred Stock, par value \$0,001 per share (the “Preferred Stock”); and
2. 500,000,000 shares of Common Stock, par value \$0,001 per share (the “Common Stock”).

The Preferred Stock and the Common Stock shall have the designations, rights, powers and preferences and the qualifications, restrictions and limitations thereof, if any, set forth below.

Section 2. Preferred Stock. The Board of Directors of the Corporation (the “Board of Directors”) is authorized, subject to limitations prescribed by law, to provide, by resolution or resolutions, for the issuance of shares of Preferred Stock in one or more series, and with respect to each series, to establish the number of shares to be included in each such series, and to fix the voting powers (if any), designations, powers, preferences, and relative, participating, optional or other special rights, if any, of the shares of each such series, and any qualifications, limitations or restrictions thereof. The powers (including voting powers), preferences, and relative, participating, optional and other special rights of each series of Preferred Stock and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding. Subject to the rights of the holders of any series of Preferred Stock, the number of authorized shares of Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the approval of the Board of Directors and by the affirmative vote of the holders of a majority in voting power of the outstanding shares of capital stock of the Corporation entitled to vote generally in an election of directors (“Voting Stock”), without the separate vote of the holders of the Preferred Stock as a class, irrespective of the provisions of Section 242(b)(2) of the DGCL.

Sections. Common Stock.

(a) Except as otherwise provided by the DGCL or this certificate of incorporation (as it may be amended, the "Certificate") and subject to the rights of holders of any series of Preferred Stock then outstanding, all of the voting power of the stockholders of the Corporation shall be vested in the holders of the Common Stock. Each share of Common Stock shall entitle the holder thereof to one vote for each share held by such holder on all matters voted upon by the stockholders of the Corporation; *provided, however,* that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Certificate (including any certificate of designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Certificate (including any certificate of designation relating to any series of Preferred Stock) or pursuant to the DGCL.

(b) Except as otherwise required by law or expressly provided in this Certificate, each share of Common Stock shall have the same powers, rights and privileges and shall rank equally, share ratably and be identical in all respects as to all matters.

(c) Subject to the rights of the holders of any series of Preferred Stock then outstanding and to the other provisions of applicable law and this Certificate, holders of Common Stock shall be entitled to receive equally, on a per share basis, such dividends and other distributions in cash, securities or other property of the Corporation if, as and when declared thereon by the Board of Directors from time to time out of assets or funds of the Corporation legally available therefor.

(d) In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, after payment or provision for payment of the Corporation's debts and any other payments required by law and amounts payable upon outstanding shares of Preferred Stock ranking senior to the shares of Common Stock upon such dissolution, liquidation or winding up, if any, the remaining assets of the Corporation shall be distributed to the holders of shares of Common Stock and the holders of shares of any other class or series ranking equally with the shares of Common Stock upon such dissolution, liquidation or winding up, equally on a per share basis. Subject to the rights of the holders of shares of Preferred Stock then outstanding and the other provisions of this Certificate, a merger or consolidation of the Corporation with or into any other corporation or other entity, or a sale or conveyance of all or any part of the assets of the Corporation (other than pursuant to a plan of dissolution approved by stockholders providing for the payment of creditors and the distribution of residual assets to its stockholders) shall not be deemed to be a voluntary or involuntary liquidation or dissolution or winding up of the Corporation within the meaning of this Paragraph (d).

ARTICLE FIVE

Section 1. Board of Directors. Except as otherwise provided in this Certificate or the DGCL, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

Section 2. Number of Directors. Subject to any rights of the holders of any series of Preferred Stock then outstanding to elect additional directors under specified circumstances or otherwise, the number of directors which shall constitute the Board of Directors shall initially be six (6) and, thereafter, shall be fixed from time to time exclusively by resolution of the Board.

Section 3. Classes of Directors. The directors of the Corporation, other than those who may be elected by the holders of any series of Preferred Stock, shall be divided into three classes, as nearly equal in number as possible, designated Class I, Class II and Class III.

Section 4. Election and Term of Office. Subject to the rights of the holders of any series of Preferred Stock then outstanding, the directors shall be elected by a plurality of the votes cast. The term of office of the initial Class I directors shall expire at the first annual meeting of stockholders following the date the Common Stock is first publicly traded (the “IPO Date”), the term of office of the initial Class II directors shall expire at the second succeeding annual meeting of stockholders after the IPO Date and the term of office of the initial Class III directors shall expire at the third succeeding annual meeting of the stockholders after the IPO Date. For the purposes hereof, the Board of Directors may assign directors already in office to Class I, Class II and Class III, in accordance with the terms of that certain Director Nomination Agreement, dated on or about September 24, 2021 (as amended and/or restated or supplemented in accordance with its terms, the “Nomination Agreement”), by and among the Corporation and the investors named therein. At each annual meeting of stockholders after the IPO Date, directors elected to replace those of a class whose terms expire at such annual meeting shall be elected to hold office until the third succeeding annual meeting after their election and until their respective successors shall have been duly elected and qualified. Each such director shall hold office until the annual meeting of stockholders for the year in which such director’s term expires and a successor is duly elected and qualified or until his or her earlier death, resignation or removal. Nothing in this Certificate shall preclude a director from serving consecutive terms. Elections of directors need not be by written ballot unless the Bylaws of the Corporation (as amended and/or restated the “Bylaws”) shall so provide.

Section 5. Newly-Created Directorships and Vacancies. Subject to the rights of the holders of any series of Preferred Stock then outstanding and except as otherwise provided in the Nomination Agreement, newly created directorships resulting from any increase in the authorized number of directors or any vacancies in the Board of Directors resulting from death, resignation, disqualification, removal from office or any other cause may be filled only by resolution of a majority of the directors then in office, although less than a quorum, or by a sole remaining director, and may not be filled in any other manner. A director elected or appointed to fill a vacancy shall serve for the unexpired term of his or her predecessor in office and until his or her successor is elected and qualified or until his or her earlier death, resignation or removal. A director elected or appointed to fill a position resulting from an increase in the number of directors shall hold office until the next election of the class for which such director shall have been elected or appointed and until his or her successor is elected and qualified, or until his or her earlier death, resignation or removal. No decrease in the authorized number of directors shall shorten the term of any incumbent director.

Section 6. Removal and Resignation of Directors. Subject to the rights of the holders of any series of Preferred Stock then outstanding, (i) prior to the first date (the “Trigger Date”) on which New Excelerate, L.P., Summit Partners, L.P., Summit Partners GE IX AIV, Ltd., Summit Partners GE IX AIV, L.P., Summit Partners Growth Equity Fund IX-B AIV, L.P., Summit Partners GE IX, LLC, Summit Partners GE IX, L.P., Summit Partners Growth Equity Fund IX-A AIV, L.P., and Excelerate GP, Ltd. (collectively, “Summit”) and their Affiliated Companies (as defined herein) cease to beneficially own in the aggregate (directly or indirectly) 40% or more of the voting power of the then outstanding shares of Voting Stock, directors may be removed with or without cause upon the affirmative vote of stockholders representing at least a majority of the voting power of the then outstanding shares of Voting Stock, voting together as a single class and (ii) on and after the Trigger Date, so long as the Board is classified, directors may be removed only for cause and only upon the affirmative vote of the holders of at least sixty-six and two-thirds percent (66%) of the voting power of the then outstanding shares of Voting Stock. Any director may resign at any time upon notice in writing or by electronic transmission to the Corporation.

Section 7. Rights of Holders of Preferred Stock. Notwithstanding the provisions of this ARTICLE FIVE, whenever the holders of one or more series of Preferred Stock shall have the right, voting separately or together by series, to elect directors at an annual or special meeting of stockholders, the election, term of office, filling of vacancies and other features of such directorship shall be subject to the rights of such series of Preferred Stock. During any period when the holders of any series of Preferred Stock, voting separately as a series or together with one or more series, have the right to elect additional directors, then upon commencement and for the duration of the period during which such right continues: (i) the then otherwise total authorized number of directors of the Corporation shall automatically be increased by such specified number of directors, and the holders of such Preferred Stock shall be entitled to elect the additional directors so provided for or fixed pursuant to said provisions, and (ii) each such additional director shall serve until such director’s successor shall have been duly elected and qualified, or until such director’s right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his or her earlier death, resignation, disqualification or removal. Except as otherwise provided by the Board of Directors in the resolution or resolutions establishing such series, whenever the holders of any series of Preferred Stock having such right to elect additional directors are divested of such right pursuant to the provisions of such stock, the terms of office of all such additional directors elected by the holders of such stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional directors, shall forthwith terminate (in which case each such director thereupon shall cease to be qualified as, and shall cease to be, a director) and the total authorized number of directors of the Corporation shall automatically be reduced accordingly.

Section 8. Advance Notice. Advance notice of stockholder nominations for the election of directors and of business to be brought by stockholders before any meeting of the stockholders of the Corporation shall be given in the manner provided in the Bylaws.

ARTICLE SIX

Section 1. Limitation of Liability.

(a) To the fullest extent permitted by the DGCL as it now exists or may hereafter be amended no director of the Corporation shall be liable to the Corporation or its stockholders for monetary damages arising from a breach of fiduciary duty as a director.

(b) Any amendment, repeal or modification of the foregoing paragraph shall not adversely affect any right or protection of a director of the Corporation existing at the time of such amendment, repeal or modification with respect to any act, omission or other matter occurring prior to such amendment, repeal or modification.

ARTICLE SEVEN

Section 1. Action by Consent. Prior to the first date (the “Stockholder Consent Trigger Date”) on which Summit and its Affiliated Companies (as defined herein) cease to beneficially own in the aggregate (directly or indirectly) at least 35% of the voting power of the then outstanding Voting Stock, any action which is required or permitted to be taken by the Corporation’s stockholders may be taken without a meeting, without prior notice and without a vote if a consent or consents, setting forth the action so taken, is signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares of the Corporation’s stock entitled to vote thereon were present and voted. On and after the Stockholder Consent Trigger Date, any action required or permitted to be taken by the Corporation’s stockholders may be taken only at a duly called annual or special meeting of the Corporation’s stockholders and the power of stockholders to act by consent without a meeting is specifically denied; provided, however, that any action required or permitted to be taken by the holders of Preferred Stock, voting separately as a series or separately as a class with one or more other such series, may be taken without a meeting, without prior notice and without a vote, to the extent expressly so provided in the resolutions creating such series of Preferred Stock.

Section 2. Special Meetings of Stockholders. Subject to the rights of the holders of any series of Preferred Stock then outstanding and to the requirements of applicable law, special meetings of stockholders of the Corporation may be called only (i) by or at the direction of the Chair of the Board of Directors or by the Board of Directors pursuant to a resolution adopted by the affirmative vote of the majority of the total number of directors that the Corporation would have if there were no vacancies and (ii) prior to the Stockholder Consent Trigger Date, by the Chair of the Board of Directors at the request of Summit in the manner provided for in the Bylaws. Any business transacted at any special meeting of stockholders shall be limited to the purpose or purposes stated in the notice of the meeting.

ARTICLE EIGHT

Section 1. Certain Acknowledgments. In recognition and anticipation that (i) certain of the directors, partners, principals, officers, members, managers, employees, operating partners and/or contractors of Summit or its Affiliated Companies (as defined below) may serve as directors or officers of the Corporation and (ii) Summit and its Affiliated Companies engage and may continue to engage in the same or similar activities or related lines of business as those in which the Corporation, directly or indirectly, may engage and/or other business activities that overlap with or compete with those in which the Corporation, directly or indirectly, may engage, and (iii) that the Corporation and its Affiliated Companies may engage in material business transactions with Summit and its Affiliated Companies, and that the Corporation is expected to benefit therefrom, the provisions of this ARTICLE EIGHT are set forth to regulate and define the conduct of certain affairs of the Corporation as they may involve Summit and/or its Affiliated Companies and/or their respective directors, partners, principals, officers, members, managers, employees, operating

partners and/or contractors, including any of the foregoing who serve as officers or directors of the Corporation (Summit and/or its Affiliated Companies and all such other persons each an “Exempted Person” and collectively, the “Exempted Persons”), and the powers, rights, duties and liabilities of the Corporation and its officers, directors and stockholders in connection therewith. As used in this Certificate, “Affiliated Companies” shall mean (a) in respect of Summit, any entity that controls, is controlled by or under common control with Summit (other than the Corporation and any company that is controlled by the Corporation) and any investment funds managed directly or indirectly by Summit and (b) in respect of the Corporation, any entity controlled by the Corporation.

Section 2. Competition and Corporate Opportunities. To the fullest extent permitted by applicable law, none of the Exempted Persons shall have any fiduciary duty to refrain from engaging directly or indirectly in the same or similar business activities or lines of business as the Corporation or any of its Affiliated Companies, and no Exempted Person shall be liable to the Corporation or its stockholders for breach of any fiduciary duty solely by reason of any such activities of such Exempted Person. To the fullest extent permitted by applicable law, the Corporation, on behalf of itself and its Affiliated Companies, renounces any interest or expectancy of the Corporation and its Affiliated Companies in, or in being offered an opportunity to participate in, business opportunities that are from time to time presented to any of the Exempted Persons, even if the opportunity is one that the Corporation or its Affiliated Companies might reasonably be deemed to have pursued or had the ability or desire to pursue if granted the opportunity to do so, and each Exempted Person shall have no duty to communicate or offer such business opportunity to the Corporation or its Affiliated Companies and, to the fullest extent permitted by applicable law, shall not be liable to the Corporation, any of its Affiliated Companies or its stockholders for breach of any fiduciary duty, as a director, officer or stockholder of the Corporation solely, by reason of the fact that Summit, its Affiliated Companies or any such Exempted Person pursues or acquires such business opportunity, sells, assigns, transfers or directs such business opportunity to another person or fails to present such business opportunity, or information regarding such business opportunity, to the Corporation or any of its Affiliated Companies. For the avoidance of doubt, each of the Exempted Persons shall, to the fullest extent permitted by law, have the right to, and shall have no duty (whether contractual or otherwise) not to, directly or indirectly: (A) engage in the same, similar or competing business activities or lines of business as the Corporation or its Affiliated Companies,

(B) do business with any client or customer of the Corporation or its Affiliated Companies, or (C) make investments in competing businesses of the Corporation or its Affiliated Companies, and such acts shall not be deemed wrongful or improper. Notwithstanding anything to the contrary in this Section 2, the Corporation does not renounce any interest or expectancy it may have in any business opportunity that is expressly offered to any director or officer of the Corporation solely in his or her capacity as such, and not in any other capacity.

Section 3. Certain Matters Deemed Not Corporate Opportunities. In addition to and notwithstanding the foregoing provisions of this ARTICLE EIGHT, a corporate opportunity shall not be deemed to belong to the Corporation if it is a business opportunity the Corporation is not financially able or contractually permitted or legally able to undertake, or that is, from its nature, not in the line of the Corporation’s business or is of no practical advantage to it or that is one in which the Corporation has no interest or reasonable expectancy.

Section 4. Amendment of this Article. Subject to the rights of the holders of any series of Preferred Stock then outstanding, and in addition to any vote required by applicable law or this Certificate, the affirmative vote of the holders of at least eighty percent (80%) of the voting power of the then outstanding shares of Voting Stock, voting together as a single class, shall be required to alter, amend or repeal, or to adopt any provision inconsistent with, this ARTICLE EIGHT; *provided however*, that, to the fullest extent permitted by law, neither the alteration, amendment or repeal of this ARTICLE EIGHT nor the adoption of any provision of this Certificate inconsistent with this ARTICLE EIGHT shall apply to or have any effect on the liability or alleged liability of any Exempted Person for or with respect to any activities or opportunities which such Exempted Person becomes aware prior to such alteration, amendment, repeal or adoption.

Section 5. Deemed Notice. Any person or entity purchasing or otherwise acquiring or holding any interest in any shares of the Corporation shall be deemed to have notice of and to have consented to the provisions of this ARTICLE EIGHT.

ARTICLE NINE

Section 1. Section 203 of the DGCL. The Corporation expressly elects not to be subject to the provisions of Section 203 of the DGCL.

Section 2. Business Combinations with Interested Stockholders. Notwithstanding any other provision in this Certificate to the contrary, the Corporation shall not engage in any Business Combination (as defined hereinafter), at any point in time at which the Common Stock is registered under Section 12(b) or 12(g) of the Exchange Act of 1934, as amended (the “Exchange Act”), with any Interested Stockholder (as defined hereinafter) for a period of three years following the time that such stockholder became an Interested Stockholder, unless:

- (a) prior to such time the Board of Directors approved either the Business Combination or the transaction which resulted in such stockholder becoming an Interested Stockholder;
- (b) upon consummation of the transaction which resulted in such stockholder becoming an Interested Stockholder, such stockholder owned at least eighty-five percent (85%) of the Voting Stock of the Corporation outstanding at the time the transaction commenced, excluding for purposes of determining the Voting Stock outstanding (but not the outstanding Voting Stock owned by such Interested Stockholder) those shares owned
- (i) by Persons (as defined hereinafter) who are directors and also officers of the Corporation and (ii) employee stock plans of the Corporation in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- (c) at or subsequent to such time, the Business Combination is approved by the Board of Directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least sixty-six and two-thirds percent (66%) of the outstanding Voting Stock which is not owned by such Interested Stockholder.

Sections. Exceptions to Prohibition on Interested Stockholder Transactions. The restrictions contained in this ARTICLE NINE shall not apply if:

(a) a stockholder becomes an Interested Stockholder inadvertently and (i) as soon as practicable divests itself of ownership of sufficient shares so that the stockholder ceases to be an Interested Stockholder; and (ii) would not, at any time within the three- year period immediately prior to a Business Combination between the Corporation and such stockholder, have been an Interested Stockholder but for the inadvertent acquisition of ownership; or

(b) the Business Combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required hereunder of a proposed transaction which (i) constitutes one of the transactions described in the second sentence of this Section 3(b) of ARTICLE NINE; (ii) is with or by a Person who either was not an Interested Stockholder during the previous three years or who became an Interested Stockholder with the approval of the Board of Directors; and (iii) is approved or not opposed by a majority of the directors then in office (but not less than one) who were directors prior to any Person becoming an Interested Stockholder during the previous three years or were recommended for election or elected to succeed such directors by a majority of such directors. The proposed transactions referred to in the preceding sentence are limited to (x) a merger or consolidation of the Corporation (except for a merger in respect of which, pursuant to Section 251(f) of the DGCL, no vote of the stockholders of the Corporation is required); (y) a sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), whether as part of a dissolution or otherwise, of assets of the Corporation or of any direct or indirect majority-owned subsidiary of the Corporation (other than to any direct or indirect wholly-owned subsidiary or to the Corporation) having an aggregate market value equal to fifty percent (50%) or more of either that aggregate market value of all of the assets of the Corporation determined on a consolidated basis or the aggregate market value of all the outstanding Stock (as defined hereinafter) of the Corporation; or (z) a proposed tender or exchange offer for fifty percent (50%) or more of the outstanding Voting Stock of the Corporation. The Corporation shall give not less than 20 days' notice to all Interested Stockholders prior to the consummation of any of the transactions described in clause (x) or (y) of the second sentence of this Section 3(b) of ARTICLE NINE.

Section 4. Definitions. As used in this ARTICLE NINE only, and unless otherwise provided by the express terms of this ARTICLE NINE, the following terms shall have the meanings ascribed to them as set forth in this Section 4 and, to the extent such terms are defined elsewhere in this Certificate, such definitions shall not apply to this Article NINE:

(a) "Affiliate" means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another Person;

(b) "Associate," when used to indicate a relationship with any Person, means: (i) any corporation, partnership, unincorporated association or other entity of which such Person is a director, officer or general partner or is, directly or indirectly, the owner of twenty percent (20%) or more of any class of Voting Stock; (ii) any trust or other estate in which such Person has at least a twenty percent (20%) beneficial interest or as to which such Person serves as trustee or in a similar fiduciary capacity; and (iii) any relative or spouse of such Person, or any relative of such spouse, who has the same residence as such Person;

(c) “Business Combination” means:

- (i) any merger or consolidation of the Corporation or any direct or indirect majority-owned subsidiary of the Corporation with (A) the Interested Stockholder, or (B) any other corporation, partnership, unincorporated association or entity if the merger or consolidation is caused by the Interested Stockholder and as a result of such merger or consolidation Section 2 of this ARTICLE NINE is not applicable to the surviving entity;
- (ii) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), except proportionately as a stockholder of the Corporation, to or with the Interested Stockholder, whether as part of a dissolution or otherwise, of assets of the Corporation or of any direct or indirect majority-owned subsidiary of the Corporation which assets have an aggregate market value equal to ten percent (10%) or more of either the aggregate market value of all the assets of the Corporation determined on a consolidated basis or the aggregate market value of all the outstanding Stock of the Corporation; or
- (iii) any transaction which results in the issuance or transfer by the Corporation or by any direct or indirect majority-owned subsidiary of the Corporation of any Stock of the Corporation or of such subsidiary to the Interested Stockholder, except: (A) pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into Stock of the Corporation or any such subsidiary which securities were outstanding prior to the time that the Interested Stockholder became such; (B) pursuant to a merger under Section 251(g) of the DGCL; (C) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into Stock of the Corporation or any such subsidiary which security is distributed, pro rata to all holders of a class or series of Stock of the Corporation subsequent to the time the Interested Stockholder became such; (D) pursuant to an exchange offer by the Corporation to purchase Stock made on the same terms to all holders of such Stock; or (E) any issuance or transfer of Stock by the Corporation; *provided however*, that in no case under items (C)-(E) of this Section 4(c)(iii) of ARTICLE NINE shall there be an increase in the Interested Stockholder’s proportionate share of the Stock of any class or series of the Corporation or of the Voting Stock of the Corporation;

(d) “control,” including the terms “controlling,” “controlled by” and “under common control with,” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of Voting Stock, by contract or otherwise. A Person who is the owner of twenty percent (20%) or more of the outstanding Voting Stock of any corporation, partnership, unincorporated association or other entity shall be presumed to have control of such entity, in the absence of proof by a preponderance of the evidence to the contrary; notwithstanding the foregoing, a presumption of control shall not apply where such Person holds Voting Stock, in good faith and not for the purpose of circumventing this ARTICLE NINE, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group (as such term is used in Rule 13d-5 under the Securities Exchange Act of 1934, as such Rule is in effect as of the date of this Certificate) have control of such entity;

(e) “Interested Stockholder” means any Person (other than the Corporation and any direct or indirect majority-owned subsidiary of the Corporation) that (i) is the owner of fifteen percent (15%) or more of the outstanding Voting Stock of the Corporation, or (ii) is an Affiliate or Associate of the Corporation and was the owner of fifteen percent (15%) or more of the outstanding Voting Stock of the Corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such Person is an Interested Stockholder, and the affiliates and associates of such Person. Notwithstanding anything in this ARTICLE NINE to the contrary, the term “Interested Stockholder” shall not include: (x) Summit or any of its current or future Affiliated Companies, or any other Person with whom Summit or any of its Affiliated Companies is currently or in the future deemed to be the owner of shares of Stock of the Corporation, (y) any Person whose ownership of shares in excess of the fifteen percent (15%) limitation set forth herein is solely as a result of its acquisition of five percent (5%) or more of the outstanding Voting Stock of the Corporation (in one transaction or a series of transactions) from Summit or any of its current or future Affiliated Companies; or (z) any Person whose ownership of shares in excess of the fifteen percent (15%) limitation set forth herein is the result of action taken solely by the Corporation, *provided that*, for purposes of this clause (z) only, such Person shall be an Interested Stockholder if thereafter such Person acquires additional shares of Voting Stock of the Corporation, except as a result of further action by the Corporation not caused, directly or indirectly, by such Person; *provided*, that, for the purpose of determining whether a Person is an Interested Stockholder, the Voting Stock of the Corporation deemed to be outstanding shall include Stock deemed to be owned by the Person through application of this definition of “owned” but shall not include any other unissued Stock of the Corporation which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise;

(f) “owner,” including the terms “own” and “owned,” when used with respect to any Stock, means a Person that individually or with or through any of its Affiliates or Associates beneficially owns such Stock, directly or indirectly; or has (A) the right to acquire such Stock (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; *provided, however*, that a Person shall not be deemed the owner of Stock tendered pursuant to a tender or exchange offer made by such Person or any of such Person’s Affiliates or Associates until such tendered Stock is accepted for purchase or exchange; or (B) the right to vote such Stock pursuant to any agreement, arrangement or understanding; *provided, however*, that a Person shall not be deemed the owner of any Stock because of such Person’s right to vote such Stock if the agreement, arrangement or understanding to vote such Stock arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to 10 or more Persons; or (C) has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in (B) of this Section 4(f) of ARTICLE NINE), or disposing of such Stock with any other Person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such Stock;

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- (g) "Person" means any individual, corporation, partnership, unincorporated association or other entity;
- (h) "Stock" means, with respect to any corporation, any capital stock of such corporation and, with respect to any other entity, any equity interest of such entity; and
- (i) "Voting Stock" means, with respect to any corporation, Stock of any class or series entitled to vote generally in the election of directors and, with respect to any entity that is not a corporation, any equity interest entitled to vote generally in the election of the governing body of such entity. Every reference to a percentage of Voting Stock shall refer to such percentage of the votes of such Voting Stock.

ARTICLE TEN

Section 1. Amendments to the Bylaws. Subject to the rights of holders of any series of Preferred Stock then outstanding, in furtherance and not in limitation of the powers conferred by law, prior to the first date (the "Amendment Trigger Date") on which Summit and its Affiliated Companies cease to beneficially own in the aggregate (directly or indirectly) at least 50% of the voting power of the then outstanding Voting Stock, the Bylaws may be amended, altered or repealed and new bylaws made by, (i) the Board or (ii) in addition to any vote of the holders of any class or series of capital stock of the Corporation required herein (including any certificate of designation relating any series of Preferred Stock), the Bylaws or applicable law, the affirmative vote of the holders of at least a majority of the voting power of all of the then outstanding shares of Voting Stock, voting together as a single class. On and after the Amendment Trigger Date, the Bylaws may be amended, altered or repealed and new bylaws made by (i) the Board or (ii) in addition to any vote of the holders of any class or series of capital stock of the Corporation required herein (including any certificate of designation relating to any series of Preferred Stock), the Bylaws or applicable law, the affirmative vote of the holders of at least sixty-six and two-thirds percent (66%) of the voting power of the then outstanding Voting Stock, voting together as a single class.

Section 2. Amendments to this Certificate. Subject to the rights of holders of any series of Preferred Stock then outstanding, and in addition to any other vote required by law or this Certificate, no provision of ARTICLE FIVE, ARTICLE SIX, ARTICLE SEVEN, ARTICLE NINE, ARTICLE TEN or ARTICLE ELEVEN of this Certificate may be altered, amended or repealed in any respect, nor may any provision of this Certificate inconsistent therewith be adopted, unless (i) prior to the Amendment Trigger Date, such alteration, amendment, repeal or adoption is approved by the affirmative vote of the holders of a majority of the voting power of all outstanding shares of Voting Stock, voting together as a single class, and (ii) on and after the Amendment Trigger Date, such alteration, amendment, repeal or adoption is approved by the affirmative vote of holders of at least sixty-six and two-thirds percent (66%) of the voting power of all outstanding shares of Voting Stock, voting together as a single class.

ARTICLE ELEVEN

Section 1. Exclusive Forum. Unless the Corporation consents in writing to the selection of an alternative forum, (a) the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, employee or stockholder of the Corporation to the

Corporation or the Corporation's stockholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware, the Certificate or the Bylaws or (iv) any action asserting a claim governed by the internal affairs doctrine; provided that for the avoidance of doubt, this provision, including for any "derivative action", will not apply to suits to enforce a duty or liability created by the Securities Act of 1933 or the Securities Exchange Act of 1934 for which the federal courts have exclusive jurisdiction or any other claim for which the federal courts have exclusive jurisdiction, and (b) the federal district courts of the United States shall be the exclusive forum for any action asserting a claim arising under the Securities Act of 1933.

Section 2. Notice. Any Person purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation (including, without limitation, shares of Common Stock) shall be deemed to have notice of and to have consented to the provisions of this ARTICLE ELEVEN.

ARTICLE TWELVE

If any provision or provisions of this Certificate shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Certificate (including, without limitation, each portion of any paragraph of this Certificate containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not, to the fullest extent permitted by applicable law, in any way be affected or impaired thereby.

AMENDED & RESTATED BYLAWS**OF****A.K.A. BRANDS HOLDING CORP.***A Delaware corporation*

(Adopted as of September 21, 2021)

ARTICLE I
OFFICES

Section 1. **Offices**. a.k.a. Brands Holding Corp. (the “**Corporation**”) may have an office or offices other than its registered office at such place or places, either within or outside the State of Delaware, as the Board of Directors of the Corporation (the “**Board of Directors**”) may from time to time determine or the business of the Corporation may require. The registered office of the Corporation in the State of Delaware shall be as stated in the Corporation’s certificate of incorporation as then in effect (the “**Certificate of Incorporation**”).

ARTICLE II
MEETINGS OF STOCKHOLDERS

Section 1. **Place of Meetings**. The Board of Directors may designate a place, if any, either within or outside the State of Delaware, as the place of meeting for any annual meeting or for any special meeting of stockholders.

Section 2. **Annual Meeting**. An annual meeting of the stockholders shall be held at such date and time as is specified by resolution of the Board of Directors. At the annual meeting, stockholders shall elect directors to succeed those whose terms expire at such annual meeting and transact such other business as properly may be brought before the annual meeting pursuant to Section 11 of this ARTICLE II of these Amended & Restated Bylaws (these “**Bylaws**”). The Board of Directors may postpone, reschedule or cancel any annual meeting of stockholders previously scheduled by the Board of Directors.

Section 3. **Special Meetings**. Special meetings of the stockholders may only be called in the manner provided in the Certificate of Incorporation. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice. The Board of Directors may postpone, reschedule or cancel any special meeting of stockholders previously scheduled by the Board of Directors; provided that prior to the Stockholder Consent Trigger Date (as defined in the Certificate of Incorporation) any special meeting called at the request of Principal Stockholder (as defined herein) may not be postponed, rescheduled or canceled without the consent of the Principal Stockholder at whose request the meeting was originally called.

Section 4. **Notice of Meetings**. Whenever stockholders are required or permitted to take action at a meeting, notice of the meeting shall be given that shall state the place, if any, date, and time of the meeting of the stockholders, the means of remote communications, if any, by which stockholders and proxyholders not physically present may be deemed to be present in person and

vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given, not less than 10 nor more than 60 days before the date on which the meeting is to be held, to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting, except as otherwise provided herein or required by law (meaning, here and hereinafter, as required from time to time by the General Corporation Law of the State of Delaware (the “DGCL”) or the Certificate of Incorporation.

(a) Form of Notice. All such notices shall be delivered in writing or in any other manner permitted by the DGCL. If mailed, such notice shall be deemed given when deposited in the United States mail, postage prepaid, addressed to the stockholder at his, her or its address as the same appears on the records of the Corporation. If delivered by courier service, notice shall be deemed given at the earlier of when the notice is received or left at such stockholder’s address as the same appears on the records of the Corporation. If given by electronic mail, notice shall be deemed given when directed to such stockholder’s electronic mail address unless the stockholder has notified the Corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by the DGCL. Notice to stockholders may also be given by other forms of electronic transmission consented to by the stockholder. If given by facsimile telecommunication, such notice shall be deemed given when directed to a number at which the stockholder has consented to receive notice by facsimile. If given by a posting on an electronic network together with separate notice to the stockholder of such specific posting, such notice shall be deemed given upon the later of (x) such posting and (y) the giving of such separate notice. If notice is given by any other form of electronic transmission, such notice shall be deemed given when directed to the stockholder. An affidavit of the secretary or an assistant secretary of the Corporation, the transfer agent of the Corporation or any other agent of the Corporation that the notice has been given shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

(b) Waiver of Notice. Whenever notice is required to be given under any provisions of the DGCL, the Certificate of Incorporation or these Bylaws, a written waiver thereof, signed by the stockholder entitled to notice, or a waiver by electronic transmission given by the stockholder entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Neither the business to be transacted at, nor the purpose of, any meeting of the stockholders of the Corporation need be specified in any waiver of notice of such meeting. Attendance of a stockholder of the Corporation at a meeting of such stockholders shall constitute a waiver of notice of such meeting, except when the stockholder attends for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened and does not further participate in the meeting.

(c) Notice by Electronic Transmission. Notwithstanding Section 4(a) of this ARTICLE II, a notice may not be given by electronic transmission from and after the time: (i) the Corporation is unable to deliver by electronic transmission two (2) consecutive notices given by the Corporation; and (ii) such inability becomes known to the secretary or an assistant secretary of the Corporation or to the transfer agent or other person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation shall not invalidate any

meeting or other action. For purposes of these Bylaws, except as otherwise limited by applicable law, the term “electronic transmission” means any form of communication not directly involving the physical transmission of paper, including the use of, or participation in, one or more electronic networks or databases (including one or more distributed electronic networks or databases), that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such recipient through an automated process. A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the Corporation. A notice by electronic mail will include any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with accessing such files or information.

Section 5. List of Stockholders. The Corporation shall prepare, at least 10 days before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, provided, however, if the record date for determining the stockholders entitled to vote is less than 10 days before the meeting date, the list shall reflect the stockholders entitled to vote as of the 10th day before the meeting date, arranged in alphabetical order and showing the address of each such stockholder and the number of shares registered in the name of each such stockholder. Nothing contained in this section shall require the Corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (b) during ordinary business hours, at the principal place of business of the Corporation. In the event the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, the list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Except as otherwise provided by law, the list shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 5 or to vote in person or by proxy at any meeting of stockholders.

Section 6. Quorum. The holders of a majority in voting power of the outstanding capital stock entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders, except as otherwise provided by law, by the Certificate of Incorporation or these Bylaws. If a quorum is not present, the chair of the meeting or the holders of a majority of the voting power present in person or represented by proxy at the meeting and entitled to vote thereon may adjourn the meeting to another time and/or place from time to time until a quorum shall be present in person or represented by proxy. When a specified item of business requires a vote by a class or series (if the Corporation shall then have outstanding shares of more than one class or series) voting as a separate class or series, the holders of a majority in voting power of the outstanding stock of such class or series shall constitute a quorum (as to such class or series) for the transaction of such item of business. A quorum once established at a meeting shall not be broken by the withdrawal of enough votes to leave less than a quorum.

Section 7. **Adjourned Meetings.** Any meeting of stockholders, annual or special, may adjourn from time to time to reconvene at the same or some other place. When a meeting is adjourned to another time and place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix a new record date for notice of such adjourned meeting, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors and, except as otherwise required by law, shall not be more than 60 days nor less than 10 days before the date of such adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

Section 8. **Vote Required.** Subject to the rights of the holders of any series of preferred stock then outstanding, when a quorum has been established, all matters other than the election of directors shall be determined by the affirmative vote of the majority of voting power of capital stock present in person or represented by proxy at the meeting and entitled to vote on the subject matter, unless by express provisions of the DGCL or other applicable law, the rules of any stock exchange upon which the Corporation's securities are listed, any regulation applicable to the Corporation or its securities, the Certificate of Incorporation or these Bylaws a minimum or different vote is required, in which case such minimum or different vote shall be the required vote for such matter. Except as otherwise provided in the Certificate of Incorporation, directors shall be elected by a plurality of the votes cast.

Section 9. **Voting Rights.** Subject to the rights of the holders of any series of preferred stock then outstanding, except as otherwise provided by the DGCL or the Certificate of Incorporation, each stockholder entitled to vote at any meeting of stockholders shall be entitled to one vote in person or by proxy for each share of capital stock held by such stockholder which has voting power upon the matter in question. Voting at meetings of stockholders need not be by written ballot.

Section 10. **Proxies.** Each stockholder entitled to vote at a meeting of stockholders or to express consent to corporate action without a meeting may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally.

Section 11. Advance Notice of Stockholder Business and Director Nominations

(a) Business at Annual Meetings of Stockholders

(i) Only such business (other than nominations of persons for election to the Board of Directors, which must be made in compliance with and are governed exclusively by Section 11(b) of this ARTICLE II) shall be conducted at an annual meeting of the stockholders as shall have been brought before the meeting (A) as specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors or any duly authorized committee thereof, (B) by or at the direction of the Board of Directors or any duly authorized committee thereof, or (C) by any stockholder of the Corporation who (1) was a stockholder of record at the time of giving of notice provided for in Section 11(a)(iii) of this ARTICLE II, on the record date for determination of stockholders of the Corporation entitled to vote at the meeting, and at the time of the annual meeting, (2) at the time of the meeting, is entitled to vote at the meeting and (3) complies with the notice procedures set forth in Section 11(a)(iii) of this ARTICLE II. For the avoidance of doubt, the foregoing clause (C) of this Section 11(a)(i) of ARTICLE II shall be the exclusive means for a stockholder to propose such business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act") or business brought by the Principal Stockholder (as defined below) and any entity that controls, is controlled by or under common control with the Principal Stockholder (other than the Corporation and any entity that is controlled by the Corporation) and any investment vehicles or funds managed or controlled, directly or indirectly, by or otherwise affiliated with the Principal Stockholder (the "Principal Stockholder Affiliates") at any time prior to the Advance Notice Trigger Date (as defined below)) before an annual meeting of stockholders.

(ii) For any business (other than (A) nominations of persons for election to the Board of Directors, which must be made in compliance with and are governed exclusively by Section 11(b) of this ARTICLE II or (B) business brought by any of New Excelerate, L.P., Summit Partners, L.P., Summit Partners GE IX AIV, Ltd., Summit Partners GE IX AIV, L.P., Summit Partners Growth Equity Fund IX-B AIV, L.P., Summit Partners GE IX, LLC, Summit Partners GE IX, L.P., Summit Partners Growth Equity Fund IX-A AIV, L.P., and Excelerate GP, Ltd. (collectively, the "Principal Stockholder") and/or the Principal Stockholder Affiliates at any time prior to the date when the Principal Stockholder ceases to beneficially own in the aggregate (directly or indirectly) at least 10% of the voting power of the then outstanding shares of capital stock of the Corporation then entitled to vote generally in the election of directors (the "Advance Notice Trigger Date") to be properly brought before an annual meeting by a stockholder, the stockholder must have given timely notice thereof in proper written form as described in Section 11(a)(iii) of this ARTICLE II to the Secretary; any such proposed business must be a proper matter for stockholder action and the stockholder and the Stockholder Associated Person (as defined in Section 11(e) of

this ARTICLE II) must have acted in accordance with the representations set forth in the Solicitation Statement (as defined in Section 11(a) (iii) of this ARTICLE II) required by these Bylaws. To be timely, a stockholder's notice for such business (other than such a notice by the Principal Stockholder prior to the Advance Notice Trigger Date, which may be delivered at any time prior to the mailing of the definitive proxy statement pursuant to Section 14(a) of the Exchange Act related to the next annual meeting of stockholders) must be delivered by hand and received by the Secretary at the principal executive offices of the Corporation in proper written form not less than ninety (90) days and not more than one hundred twenty (120) days prior to the first anniversary of the preceding year's annual meeting of stockholders (which date shall, for purposes of the Corporation's first annual meeting of stockholders after its shares of Common Stock are first publicly traded, be deemed to have occurred on June 30, 2021); provided, however, that if and only if the annual meeting is not scheduled to be held within a period that commences thirty (30) days before such anniversary date and ends seventy (70) days after such anniversary date, or if no annual meeting was held in the preceding year (other than for purposes of the Corporation's first annual meeting of stockholders after its shares of Common Stock are first publicly traded), such stockholder's notice must be delivered not earlier than the 120th day prior to the date of such annual meeting and by the later of (A) the tenth day following the day the Public Announcement (as defined in Section 11(e) of this ARTICLE II) of the date of the annual meeting is first made or (B) the date which is ninety (90) days prior to the date of the annual meeting. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Notices delivered pursuant to Section 11(a) of this ARTICLE II will be deemed received on any given day only if received prior to the Close of Business on such day (and otherwise shall be deemed received on the next succeeding Business Day).

(iii) To be in proper written form, a stockholder's notice to the Secretary must set forth as to each matter of business the stockholder proposes to bring before the annual meeting:

(A) a brief description of the business desired to be brought before the annual meeting (including the specific text of any proposal, resolutions or actions proposed for consideration and if such business includes a proposal to amend these Bylaws, the specific language of the proposed amendment) and the reasons for conducting such business at the annual meeting,

(B) the name and address of the stockholder proposing such business, as they appear on the Corporation's books, the name and address (if different from the Corporation's books) of such proposing stockholder, and the name and address of any Stockholder Associated Person,

(C) the class or series and number of shares of stock of the Corporation which are directly or indirectly held of record or beneficially owned by such stockholder or by any Stockholder Associated Person, a description of any Derivative Positions (as defined in Section 11(e) of this ARTICLE II) directly or indirectly held or beneficially held by the stockholder or any Stockholder Associated Person, and whether and to the extent to which a Hedging Transaction (as defined in Section 11(e) of this ARTICLE II) has been entered into by or on behalf of such stockholder or any Stockholder Associated Person,

(D) a description of all arrangements or understandings between or among such stockholder or any Stockholder Associated Person and any other person or entity (including their names) in connection with the proposal of such business by such stockholder and any material interest of such stockholder, any Stockholder Associated Person or such other person or entity in such business,

(E) a representation that such stockholder is a stockholder of record of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the annual meeting to bring such business before the meeting,

(F) any other information related to such stockholder or any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies or consents (even if a solicitation is not involved) by such stockholder or Stockholder Associated Person in support of the business proposed to be brought before the meeting pursuant to Section 14 of the Exchange Act, and the rules, regulations and schedules promulgated thereunder, and

(G) a representation as to whether such stockholder or any Stockholder Associated Person intends or is part of a group which intends to deliver a proxy statement and/or form of proxy to the holders of at least the percentage of the Corporation's outstanding capital stock required to approve the proposal or otherwise to solicit proxies or votes from stockholders in support of the proposal (such representation, a "Solicitation Statement").

In addition, any stockholder who submits a notice pursuant to Section 11(a) of this ARTICLE II is required to update and supplement the information disclosed in such notice, if necessary, in accordance with Section 11(d) of this ARTICLE II.

(iv) Notwithstanding anything in these Bylaws to the contrary, no business (other than nominations of persons for election to the Board of Directors, which must be made in compliance with and are governed exclusively by Section 11(b) of this ARTICLE II and business included in the Corporation's proxy materials pursuant to the Exchange Act) shall be conducted at an annual meeting except in accordance with the procedures set forth in Section 11(a) of this ARTICLE II.

(b) Nominations at Annual Meetings of Stockholders

(i) Only persons who are nominated in accordance and compliance with the procedures set forth in this Section 11(b) of ARTICLE II shall be eligible for election to the Board of Directors at an annual meeting of stockholders.

(ii) Nominations of persons for election to the Board of Directors of the Corporation may be made at an annual meeting of stockholders only (A) by or at the direction of the Board of Directors or any duly authorized committee thereof or (B) by any stockholder of the Corporation who (1) was a stockholder of record at the time of giving of notice provided for in this Section 11(b) of ARTICLE II on the record date for determination of stockholders of the Corporation entitled to vote at the meeting, and at the time of the annual meeting, (2) is entitled to vote at the meeting and (3) complies with the notice procedures set forth in this Section 11(b) of ARTICLE II. For the avoidance of doubt, clause (B) of this Section 11(b)(ii) of ARTICLE II shall be the exclusive means for a stockholder to make nominations of persons for election to the Board of Directors at an annual meeting of stockholders. For nominations to be properly brought by a stockholder at an annual meeting of stockholders, the stockholder must have given timely notice thereof in proper written form as described in Section 11(b)(iii) of this ARTICLE II to the Secretary and the stockholder and the Stockholder Associated Person must have acted in accordance with the representations set forth in the Nomination Solicitation Statement required by these Bylaws. To be timely, a stockholder's notice for the nomination of persons for election to the Board of Directors (other than such a notice by the Principal Stockholder prior to the Advance Notice Trigger Date, which may be delivered at any time prior to the mailing of the definitive proxy statement pursuant to Section 14(a) of the Exchange Act related to the next annual meeting of stockholders) must be delivered to the Secretary at the principal executive offices of the Corporation in proper written form not less than ninety (90) days and not more than one hundred twenty (120) days prior to the first anniversary of the preceding year's annual meeting of stockholders (which date shall, for purposes of the Corporation's first annual meeting of stockholders after its shares of Common Stock are first publicly traded, be deemed to have occurred on June 30, 2021); provided, however, that if and only if the annual meeting is not scheduled to be held within a period that commences thirty (30) days before such anniversary date and ends seventy (70) days after such anniversary date, or if no annual meeting was held in the preceding year (other than for purposes of the Corporation's first annual meeting of stockholders after its shares of Common Stock are first publicly traded), such stockholder's notice must be delivered not earlier than the 120th day prior to the date of such annual meeting and by the later of the tenth day following the day the Public Announcement of the date of the annual meeting is first made and the date which is ninety (90) days prior to the date of the annual meeting. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period (or extend any time period)

for the giving of a stockholder's notice as described above. Notices delivered pursuant to this Section 11(b) of ARTICLE II will be deemed received on any given day if received prior to the Close of Business on such day (and otherwise on the next succeeding day). For the avoidance of doubt, a stockholder shall not be entitled to make additional or substitute nominations following the expiration of the time periods set forth in these Bylaws.

(iii) To be in proper written form, a stockholder's notice to the Secretary shall set forth:

(A) as to each person that the stockholder proposes to nominate for election or re-election as a director of the Corporation, (1) the name, age, business address and residence address of the person, (2) the principal occupation or employment of the person, (3) the class or series and number of shares of capital stock of the Corporation which are directly or indirectly owned beneficially or of record by the person, (4) the date such shares were acquired and the investment intent of such acquisition and (5) any other information relating to the person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with the solicitation of proxies or consents for a contested election of directors (even if an election contest or proxy solicitation is not involved), or is otherwise required, pursuant to Section 14 of the Exchange Act, and the rules, regulations and schedules promulgated thereunder (including such person's written consent to being named in the proxy statement as a nominee of the stockholder, if applicable, and to serving as a director if elected),

(B) as to the stockholder giving the notice, the name and address of such stockholder, as they appear on the Corporation's books, the name and address (if different from the Corporation's books) of such proposing stockholder, and the name and address of any Stockholder Associated Person,

(C) the class or series and number of shares of stock of the Corporation which are directly or indirectly held of record or beneficially owned by such stockholder or by any Stockholder Associated Person with respect to the Corporation's securities, a description of any Derivative Positions directly or indirectly held or beneficially held by the stockholder or any Stockholder Associated Person, and whether and the extent to which a Hedging Transaction has been entered into by or on behalf of such stockholder or any Stockholder Associated Person,

(D) a description of all arrangements or understandings (including financial transactions and direct or indirect compensation) between or among such stockholder or any Stockholder Associated Person and each proposed nominee and any other person or entity (including their names) pursuant to which the nomination(s) are to be made by such stockholder,

(E) a representation that such stockholder is a holder of record of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the persons named in its notice,

(F) any other information relating to such stockholder or any Stockholder Associated Person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with the solicitation of proxies or consents for a contested election of directors (even if an election contest or proxy solicitation is not involved), or otherwise required, pursuant to Section 14 of the Exchange Act, and the rules, regulations and schedules promulgated thereunder, and

(G) a representation as to whether such stockholder or any Stockholder Associated Person intends or is part of a group which intends to deliver a proxy statement and/or form of proxy to the holders of a sufficient number of the Corporation's outstanding shares reasonably believed by the stockholder or any Stockholder Associated Person, as the case may be, to elect each proposed nominee or otherwise to solicit proxies or votes from stockholders in support of the nomination (such representation, a "Nomination Solicitation Statement").

In addition, any stockholder who submits a notice pursuant to this Section 11(b) of ARTICLE II is required to update and supplement the information disclosed in such notice, if necessary, in accordance with Section 11(d) of this ARTICLE II and shall comply with Section 11(f) of this ARTICLE II.

(iv) Notwithstanding anything in Section 11(b)(ii) of this ARTICLE II to the contrary, if the number of directors to be elected to the Board of Directors is increased effective after the time period for which nominations would otherwise be due under paragraph 11(b)(ii) of this ARTICLE II and there is no Public Announcement naming the nominees for additional directorships at least ten (10) days prior to the last day a stockholder may deliver a notice of nomination in accordance with Section 11(b)(ii), a stockholder's notice required by Section 11(b)(ii) of this ARTICLE II shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be received by the Secretary at the principal executive offices of the Corporation not later than the Close of Business on the tenth day following the day on which such Public Announcement is first made by the Corporation. The number of nominees a stockholder may nominate for election at the annual meeting (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such annual meeting.

(c) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the notice of meeting. Only persons who are nominated in accordance and compliance with the procedures set forth in this Section 11(c) of ARTICLE II shall be eligible for election to the Board

of Directors at a special meeting of stockholders at which directors are to be elected. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the notice of meeting only (i) by or at the direction of the Board of Directors, any duly authorized committee thereof, or stockholders (if stockholders are permitted to call a special meeting of stockholders pursuant to Section 2 of ARTICLE SEVEN of the Certificate of Incorporation) or (ii) provided that the Board of Directors or stockholders (if stockholders are permitted to call a special meeting of stockholders pursuant to Section 2 of ARTICLE SEVEN of the Certificate of Incorporation) has determined that directors are to be elected at such special meeting, by any stockholder of the Corporation who (A) was a stockholder of record at the time of giving of notice provided for in this Section 11(c) of ARTICLE II and at the time of the special meeting, (B) is entitled to vote at the meeting and (C) complies with the notice procedures provided for in this Section 11(c) of ARTICLE II. For nominations to be properly brought by a stockholder at a special meeting of stockholders, the stockholder must have given timely notice thereof in proper written form as described in this Section 11(c) of ARTICLE II to the Secretary. To be timely, a stockholder's notice for the nomination of persons for election to the Board of Directors (other than such a notice by the Principal Stockholder prior to the Advance Notice Trigger Date, which may be delivered at any time prior to the mailing of the definitive proxy statement pursuant to Section 14(a) of the Exchange Act related to the special meeting of stockholders) must be received by the Secretary at the principal executive offices of the Corporation not earlier than the 120th day prior to such special meeting and not later than the Close of Business on the later of the 90th day prior to such special meeting or the tenth day following the day on which a Public Announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall any adjournment or postponement of a special meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. Notices delivered pursuant to this Section 11(c) of ARTICLE II will be deemed received on any given day if received prior to the Close of Business on such day (and otherwise on the next succeeding day). To be in proper written form, such stockholder's notice shall set forth all of the information required by, and otherwise be in compliance with, Section 11(b)(iii) of this ARTICLE II. In addition, any stockholder who submits a notice pursuant to this Section 11(c) of ARTICLE II is required to update and supplement the information disclosed in such notice, if necessary, in accordance with Section 11(d) of this ARTICLE II and shall comply with Section 11(f) of this ARTICLE II. The number of nominees a stockholder may nominate for election at the special meeting (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the special meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such special meeting.

(d) Update and Supplement of Stockholder's Notice. Any stockholder who submits a notice of proposal for business or nomination for election pursuant to this Section 11 of ARTICLE II is required to update and supplement the information disclosed in such notice, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for determining the stockholders entitled to notice of the meeting of stockholders and as of the date that is ten (10) Business Days prior to such meeting of the stockholders or any adjournment or postponement thereof, and such update and supplement shall be received by the Secretary at the principal executive offices of the Corporation not later than the Close of Business on the fifth Business Day after the record date for the meeting of stockholders

(in the case of the update and supplement required to be made as of the record date), and not later than the Close of Business on the eighth Business Day prior to the date for the meeting of stockholders or any adjournment or postponement thereof (in the case of the update and supplement required to be made as of ten (10) Business Days prior to the meeting of stockholders or any adjournment or postponement thereof).

(e) Definitions. For purposes of this Section 11 of ARTICLE II, the term:

(i) "Business Day" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in San Francisco, CA or New York, NY are authorized or obligated by law or executive order to close;

(ii) "Close of Business" shall mean 5:00 p.m. local time at the principal executive offices of the Corporation, and if an applicable deadline falls on the Close of Business on a day that is not a Business Day, then the applicable deadline shall be deemed to be the Close of Business on the immediately preceding Business Day;

(iii) "Derivative Positions" means, with respect to a stockholder or any Stockholder Associated Person, any derivative positions including, without limitation, any short position, profits interest, option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise and any performance-related fees to which such stockholder or any Stockholder Associated Person is entitled based, directly or indirectly, on any increase or decrease in the value of shares of capital stock of the Corporation;

(iv) "Hedging Transaction" means, with respect to a stockholder or any Stockholder Associated Person, any hedging or other transaction (such as borrowed or loaned shares) or series of transactions, or any other agreement, arrangement or understanding, the effect or intent of which is to increase or decrease the voting power or economic or pecuniary interest of such stockholder or any Stockholder Associated Person with respect to the Corporation's securities;

(v) "Public Announcement" means disclosure in a press release reported by the Dow Jones News Service, Associated Press, Business Wire, PR Newswire or comparable news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act; and

(vi) "Stockholder Associated Person" of any stockholder means (A) any person controlling, directly or indirectly, or acting in concert with, such stockholder, (B) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder or (C) any person directly or indirectly controlling, controlled by or under common control with such Stockholder Associated Person.

(f) Submission of Questionnaire, Representation and Agreement. To be qualified to be a nominee for election or re-election as a director of the Corporation, a person must deliver (in the case of a person nominated by a stockholder in accordance with Sections 11(b) or 11(c) of this ARTICLE II, in accordance with the time periods prescribed for delivery of notice under such sections) to the Secretary at the principal executive offices of the Corporation a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be provided by the Secretary upon written request of any stockholder of record identified by name within five Business Days of such written request) and a written representation and agreement (in the form provided by the Secretary upon the written request of any stockholder of record identified by name within five Business Days of such written request) that such person (i) is not and will not become a party to (A) any agreement, arrangement or understanding (whether written or oral) with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a “Voting Commitment”) that has not been disclosed to the Corporation or (B) any Voting Commitment that could limit or interfere with such person’s ability to comply, if elected as a director of the Corporation, with such person’s fiduciary duties under applicable law, (ii) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed to the Corporation and (iii) would be in compliance, and if elected as a director of the Corporation will comply, with all applicable publicly disclosed corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation.

(g) Update and Supplement of Nominee Information. The Corporation may also, as a condition to any such nomination or business being deemed properly brought before an annual meeting, require any Stockholder Associated Person or proposed nominee to deliver to the Secretary, within five Business Days of any such request, such other information as may reasonably be requested by the Corporation, including such other information as may be reasonably required by the Board, in its sole discretion, to determine (A) the eligibility of such proposed nominee to serve as a director of the Corporation, (B) whether such nominee qualifies as an “independent director” or “audit committee financial expert” under applicable law, Securities and Exchange Commission and stock exchange rules or regulation, or any publicly disclosed corporate governance guideline or committee charter of the Corporation and (C) such other information that the Board of Directors determines, in its sole discretion, could be material to a reasonable stockholder’s understanding of the independence, or lack thereof, of such nominee.

(h) Authority of Chair; General Provisions. Except as otherwise provided by applicable law, the Certificate of Incorporation or these Bylaws, the chair of the meeting shall have the power and duty to determine whether any nomination or other business proposed to be brought before the meeting was made or brought in accordance with the procedures set forth in these Bylaws (including whether the stockholder or Stockholder Associated Person, if any, on whose

behalf the nomination or proposal is made or solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies or votes in support of such stockholder's nominee or proposal in compliance with such stockholder's representation as required by Section 11(a)(iii)(G) or Section 11(b)(iii)(G), as applicable, of these Bylaws) and, if any nomination or other business is not made or brought in compliance with these Bylaws, to declare that such nomination or proposal of other business be disregarded and not acted upon. Notwithstanding the foregoing provisions of this Section 11, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or proposed business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 11, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

(i) Compliance with Exchange Act. Notwithstanding the foregoing provisions of these Bylaws, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules, regulations and schedules promulgated thereunder with respect to the matters set forth in these Bylaws; provided, however, that any references in these Bylaws to the Exchange Act or the rules, regulations and schedules promulgated thereunder are not intended to and shall not limit the requirements applicable to any nomination or other business to be considered pursuant to Section 11 of this ARTICLE II.

(j) Effect on Other Rights. Nothing in these Bylaws shall be deemed to (A) affect any rights of the stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act, (B) confer upon any stockholder a right to have a nominee or any proposed business included in the Corporation's proxy statement, except as set forth in the Certificate of Incorporation or these Bylaws, (C) affect any rights of the holders of any series of preferred stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation or (D) limit the exercise, the method or timing of the exercise of, the rights of any person granted by the Corporation to nominate directors (including pursuant to that Director Nomination Agreement, dated as of on or about September 24, 2021 (as amended and/or restated or supplemented from time to time, the "Nomination Agreement"), by and among the Corporation and the investors named therein, which rights may be exercised without compliance with the provisions of this Section 11 of ARTICLE II.

Section 12. Fixing a Record Date for Stockholder Meetings. In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 days nor less than 10 days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting

shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be the close of business on the next day preceding the day on which notice is first given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting in conformity herewith; and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the foregoing provisions of this Section 12 at the adjourned meeting.

Section 13. Action by Stockholders Without a Meeting. So long as stockholders of the Corporation have the right to act by written consent in accordance with Section 1 of ARTICLE SEVEN of the Certificate of Incorporation, the following provisions shall apply:

(a) Record Date. For the purpose of determining the stockholders entitled to consent to corporate action without a meeting as may be permitted by the Certificate of Incorporation or the certificate of designation relating to any outstanding series of preferred stock, the Board of Directors may fix a record date, which record date shall not precede the date on which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than ten (10) (or the maximum number permitted by applicable law) days after the date on which the resolution fixing the record date is adopted by the Board of Directors. Other than the Principal Stockholder, any stockholder of record seeking to have the stockholders authorize or take action by consent in lieu of a meeting shall, by written notice delivered to the Secretary at the Corporation's principal place of business during regular business hours, request that the Board of Directors fix a record date, which notice shall include the text of any proposed resolutions. Notices delivered pursuant to Section 13(a) of this ARTICLE II will be deemed received on any given day only if received prior to the close of business on such day (and otherwise shall be deemed received on the next succeeding business day). The Board of Directors shall promptly, but in all events within ten (10) days after the date on which such written notice is properly delivered to and deemed received by the Secretary, adopt a resolution fixing the record date (unless a record date has previously been fixed by the Board of Directors pursuant to the first sentence of this Section 13(a)). If no record date has been fixed by the Board of Directors pursuant to this Section 13(a) or otherwise within ten (10) days of receipt of a valid request by a stockholder, the record date for determining stockholders entitled to consent to corporate action without a meeting, when no prior action by the Board of Directors is required pursuant to applicable law, shall be the first date after the expiration of such ten (10) day time period on which a signed consent setting forth the action taken or proposed to be taken is delivered to the Corporation pursuant to Section 13(b); provided, however, that if prior action by the Board of Directors is required by applicable law, the record date for determining stockholders entitled to consent to corporate action without a meeting shall in such an event be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(b) Generally. No consent shall be effective to take the corporate action referred to therein unless consents signed by a sufficient number of stockholders to take such action are delivered to the Corporation, in the manner required by this Section 13, within sixty (60) (or the maximum number permitted by applicable law) days of the first date on which a consent is delivered to the Corporation in the manner required by applicable law. The validity of any consent executed by a proxy for a stockholder pursuant to an electronic transmission transmitted to such proxy holder by or upon the authorization of the stockholder shall be determined by or at the direction of the Secretary. A written record of the information upon which the person making such determination relied shall be made and kept in the records of the proceedings of the stockholders. Any such consent shall be inserted in the minute book as if it were the minutes of a meeting of stockholders. Prompt notice of the taking of the corporate action without a meeting by less than unanimous consent shall be given by the Corporation (at its expense) to those stockholders who have not consented and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that consents signed by a sufficient number of holders to take the action were delivered to the Corporation.

Section 14. Conduct of Meetings.

(a) Generally. Meetings of stockholders shall be presided over by the Chair of the Board, if any, or in the Chair's absence or disability, by the Chief Executive Officer, or in the Chief Executive Officer's absence or disability, by the President, or in the President's absence or disability, by a Vice President (in the order as determined by the Board of Directors), or in the absence or disability of the foregoing persons by a chair designated by the Board of Directors, or in the absence or disability of such person, by a chair chosen at the meeting. The Secretary shall act as secretary of the meeting, but in the Secretary's absence or disability the chair of the meeting may appoint any person to act as secretary of the meeting.

(b) Rules, Regulations and Procedures. The Board of Directors may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the Corporation as it shall deem appropriate including, without limitation, such guidelines and procedures as it may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the chair of any meeting of stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chair, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chair of the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chair of the meeting shall determine; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; (v) limitations on the time allotted to questions or comments by participants; and (vi) restrictions on the use of mobile phones, audio or video recording devices and similar devices at the meeting. The chair of the meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a nomination or matter or business was not properly brought before the meeting and if such chair should so determine, such chair shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board of Directors

or the chair of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure. The chair of the meeting shall announce at the meeting when the polls for each matter to be voted upon at the meeting will be opened and closed. After the polls close, no ballots, proxies or votes or any revocations or changes thereto may be accepted. The chair of the meeting shall have the power, right and authority, for any or no reason, to convene, recess and/or adjourn any meeting of stockholders.

(c) **Inspectors of Elections.** The Corporation may, and to the extent required by law shall, in advance of any meeting of stockholders, appoint one or more inspectors of election to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the chair of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by law, inspectors may be officers, employees or agents of the Corporation. No person who is a candidate for an office at an election may serve as an inspector at such election. Each inspector, before entering upon the discharge of such inspector's duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector shall have the duties prescribed by law and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by law.

Section 15. **Remote Communication.** If authorized by the Board in its sole discretion, and subject to such guidelines and procedures as the Board may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication:

- (a) participate in a meeting of stockholders; and
- (b) be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication,
 - provided that
- (c) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder;
- (d) the Corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings; and
- (e) if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Corporation.

ARTICLE III
DIRECTORS

Section 1. **General Powers.** Except as otherwise provided in the Certificate of Incorporation or the DGCL, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors.

Section 2. **Annual Meetings.** The annual meeting of the Board of Directors shall be held without other notice than this Bylaw immediately after, and at the same place as, the annual meeting of stockholders. In the event that the annual meeting of stockholders takes place telephonically or through any other means by which the stockholders do not convene in any one location, the annual meeting of the Board of Directors shall be held at the principal offices of the Corporation immediately after the annual meeting of the stockholders.

Section 3. **Regular Meetings and Special Meetings.** Regular meetings, other than the annual meeting, of the Board of Directors may be held without notice at such time and at such place as shall from time to time be determined by resolution of the Board of Directors and publicized among all directors. Special meetings of the Board of Directors may be called by (i) the Chair of the Board, if any, (ii) by the Secretary upon the written request of a majority of the directors then in office or (iii) if the Board of Directors then includes a director nominated or designated for nomination by the Principal Stockholder, by any director nominated or designated for nomination by the Principal Stockholder, and in each case shall be held at the place, if any, on the date and at the time as he, she or they shall fix. Any and all business may be transacted at a special meeting of the Board of Directors.

Section 4. **Notice of Meetings.** Notice of regular meetings of the Board of Directors need not be given except as otherwise required by law or these Bylaws. Notice of each special meeting of the Board of Directors, and of each regular and annual meeting of the Board of Directors for which notice is required, shall be given by the Secretary as hereinafter provided in this Section 4. Such notice shall be state the date, time and place, if any, of the meeting. Notice of any special meeting, and of any regular or annual meeting for which notice is required, shall be given to each director at least (a) twenty-four (24) hours before the meeting if by telephone or by being personally delivered or sent by overnight courier, telecopy, electronic transmission, email or similar means or (b) five (5) days before the meeting if delivered by mail to the director's residence or usual place of business. Such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage prepaid, or when transmitted if sent by telex, telecopy, electronic transmission, email or similar means. Neither the business to be transacted at, nor the purpose of, any special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 5. **Waiver of Notice.** Any director may waive notice of any meeting of directors by a writing signed by the director or by electronic transmission. Any member of the Board of Directors or any committee thereof who is present at a meeting shall have waived notice of such meeting except when such member attends for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened and does not further participate in the meeting. Such member shall be conclusively presumed to have assented to any action taken unless his or her dissent shall be

entered in the minutes of the meeting or unless his or her written dissent to such action shall be filed with the person acting as the secretary of the meeting before the adjournment thereof or shall be forwarded by registered mail to the secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to any member who voted in favor of such action.

Section 6. Chair of the Board, Quorum, Required Vote and Adjournment. The Board of Directors may elect a Chair of the Board. The Chair of the Board must be a director and may be an officer of the Corporation. Subject to the provisions of these Bylaws and the direction of the Board of Directors, he or she shall perform all duties and have all powers which are commonly incident to the position of Chair of the Board or which are delegated to him or her by the Board of Directors, preside at all meetings of the stockholders and Board of Directors at which he or she is present and have such powers and perform such duties as the Board of Directors may from time to time prescribe. If the Chair of the Board is not present at a meeting of the Board of Directors, the Chief Executive Officer (if the Chief Executive Officer is a director and is not also the Chair of the Board) shall preside at such meeting, and, if the Chief Executive Officer is not present at such meeting, a majority of the directors present at such meeting shall elect one of the directors present at the meeting to so preside. At all meetings of the Board of Directors, a majority of the directors then in office shall constitute a quorum for the transaction of business, provided, however, that a quorum shall never be less than one-third the total number of directors. Unless by express provision of an applicable law, the Certificate of Incorporation or these Bylaws a different vote is required, the vote of a majority of directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. At any meeting of the Board of Directors, business shall be transacted in such order and manner as the Board of Directors may from time to time determine. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may, to the fullest extent permitted by law, adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 7. Committees.

(a) The Board of Directors may designate one or more committees, including an executive committee, consisting of one or more of the directors of the Corporation, and any committees required by the rules and regulations of such exchange as any securities of the Corporation are listed. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Except to the extent restricted by applicable law or the Certificate of Incorporation, each such committee, to the extent provided by the DGCL and in the resolution creating it, shall have and may exercise all the powers and authority of the Board of Directors. Each such committee shall serve at the pleasure of the Board of Directors. Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors upon request.

(b) Each committee of the Board of Directors may fix its own rules of procedure and shall hold its meetings as provided by such rules, except as may otherwise be provided by a resolution of the Board of Directors designating such committee. Unless otherwise provided in such a resolution, the presence of at least a majority of the members of the committee shall be necessary to constitute a quorum. All matters shall be determined by a majority vote of the members present at a meeting at which a quorum is present. Unless otherwise provided in such a

resolution, in the event that a member and that member's alternate, if alternates are designated by the Board of Directors, of such committee is or are absent or disqualified, the member or members present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in place of any such absent or disqualified member.

Section 8. **Action by Written Consent.** Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, may be taken without a meeting if all members of the Board of Directors or such committee, as the case may be, consent thereto in writing or by electronic transmission. After the action is taken, the consent or consents relating thereto shall be filed with the minutes of proceedings of the board or committee in the same paper form or electronic form as the minutes are maintained.

Section 9. **Compensation.** The Board of Directors shall have the authority to fix the compensation, including fees, reimbursement of expenses and equity compensation, of directors for services to the Corporation in any capacity, including for attendance of meetings of the Board of Directors or participation on any committees. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 10. **Reliance on Books and Records.** A member of the Board of Directors, or a member of any committee designated by the Board of Directors shall, in the performance of such member's duties, be fully protected in relying in good faith upon records of the Corporation and upon such information, opinions, reports or statements presented to the Corporation by any of the Corporation's officers or employees, or committees of the Board of Directors, or by any other person as to matters the member reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

Section 11. **Telephonic and Other Meetings.** Unless restricted by the Certificate of Incorporation, any one or more members of the Board of Directors or any committee thereof may participate in a meeting of the Board of Directors or such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Participation by such means shall constitute presence in person at a meeting.

ARTICLE IV OFFICERS

Section 1. **Number and Election.** Subject to the authority of Chief Executive Officer to appoint officers as set forth in Section 11 of this ARTICLE IV, the officers of the Corporation shall be elected by the Board of Directors and shall consist of a Chief Executive Officer, a President, one or more Vice Presidents, a Secretary, a Chief Financial Officer, a Treasurer and such other officers and assistant officers as may be deemed necessary or desirable by the Board of Directors. Any number of offices may be held by the same person. In its discretion, the Board of Directors may choose not to fill any office for any period as it may deem advisable.

Section 2. Term of Office. Each officer shall hold office until a successor is duly elected and qualified or until his or her earlier death, resignation or removal as hereinafter provided.

Section 3. Removal. Any officer or agent of the Corporation may be removed with or without cause by the Board of Directors, a duly authorized committee thereof or by such officers as may be designated by a resolution of the Board of Directors, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer appointed by the Chief Executive Officer in accordance with Section 11 of this ARTICLE IV may also be removed by the Chief Executive Officer in his or her sole discretion.

Section 4. Vacancies. Any vacancy occurring in any office because of death, resignation, removal, disqualification or otherwise may be filled by the Board of Directors or the Chief Executive Officer in accordance with Section 11 of this ARTICLE IV.

Section 5. Compensation. Compensation of all executive officers shall be approved by the Board of Directors or a duly authorized committee thereof, and no officer shall be prevented from receiving such compensation by virtue of his or her also being a director of the Corporation.

Section 6. Chief Executive Officer. The Chief Executive Officer shall have the powers and perform the duties incident to that position. The Chief Executive Officer shall, in the absence of the Chair of the Board, or if a Chair of the Board shall not have been elected, preside at each meeting of (a) the Board of Directors if the Chief Executive Officer is a director and (b) the stockholders. Subject to the powers of the Board of Directors and the Chair of the Board, the Chief Executive Officer shall be in general and active charge of the entire business and affairs of the Corporation, and shall be its chief policy making officer. The Chief Executive Officer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or provided in these Bylaws. The Chief Executive Officer is authorized to execute bonds, mortgages and other contracts requiring a seal, under the seal of the Corporation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Corporation. Whenever the President is unable to serve, by reason of sickness, absence or otherwise, the Chief Executive Officer shall perform all the duties and responsibilities and exercise all the powers of the President.

Section 7. The President. The President of the Corporation shall, subject to the powers of the Board of Directors, the Chair of the Board and the Chief Executive Officer, have general charge of the business, affairs and property of the Corporation, and control over its officers, agents and employees. The President shall see that all orders and resolutions of the Board of Directors are carried into effect. The President is authorized to execute bonds, mortgages and other contracts requiring a seal, under the seal of the Corporation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent of the Corporation. The President shall, in the absence of the Chief Executive Officer, act with all of the powers and be subject to all of the restrictions of the Chief Executive Officer. The President shall have such other powers and perform such other duties as may be prescribed by the Chair of the Board, the Chief Executive Officer, the Board of Directors or as may be provided in these Bylaws or otherwise are incident to the position of President.

Section 8. Vice Presidents. The Vice President, or if there shall be more than one, the Vice Presidents, in the order determined by the Board of Directors or the Chair of the Board, shall, perform such duties and have such powers as the Board of Directors, the Chair of the Board, the Chief Executive Officer, the President or these Bylaws may, from time to time, prescribe or which otherwise are incident to the position of Vice President. The Vice Presidents may also be designated as Executive Vice Presidents or Senior Vice Presidents, as the Board of Directors may from time to time prescribe.

Section 9. The Secretary and Assistant Secretaries. The Secretary shall attend all meetings of the Board of Directors (other than executive sessions thereof) and all meetings of the stockholders and record all the proceedings of the meetings in a book or books to be kept for that purpose or shall ensure that his or her designee attends each such meeting to act in such capacity. Under the Board of Directors' supervision, the Secretary shall give, or cause to be given, all notices required to be given by these Bylaws or by law; shall have such powers and perform such duties as the Board of Directors, the Chair of the Board, the Chief Executive Officer, the President or these Bylaws may, from time to time, prescribe or which otherwise are incident to the position of Secretary; and shall have custody of the corporate seal of the Corporation. The Secretary, or an Assistant Secretary, shall have authority to affix the corporate seal to any instrument requiring it and when so affixed, it may be attested by his or her signature or by the signature of such Assistant Secretary. The Board of Directors may give general authority to any other officer to affix the seal of the Corporation and to attest the affixing by his or her signature. The Assistant Secretary, or if there be more than one, any of the assistant secretaries, shall in the absence or disability of the Secretary, perform the duties and exercise the powers of the Secretary and shall perform such other duties and have such other powers as the Board of Directors, the Chair of the Board, the Chief Executive Officer, the President, or Secretary may, from time to time, prescribe.

Section 10. The Chief Financial Officer and the Treasurer. The Chief Financial Officer shall have the custody of the corporate funds and securities; shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation as shall be necessary or desirable in accordance with applicable law or generally accepted accounting principles; shall deposit all monies and other valuable effects in the name and to the credit of the Corporation as may be ordered by the Chair of the Board or the Board of Directors; shall receive, and give receipts for, moneys due and payable to the Corporation from any source whatsoever; shall cause the funds of the Corporation to be disbursed when such disbursements have been duly authorized, taking proper vouchers for such disbursements; and shall render to the Board of Directors, at its regular meeting or when the Board of Directors so requires, an account of the financial condition and operations of the Corporation; shall have such powers and perform such duties as the Board of Directors, the Chair of the Board, the Chief Executive Officer, the President or these Bylaws may, from time to time, prescribe or which otherwise are incident to the position of Chief Financial Officer. The Treasurer, if any, shall in the absence or disability of the Chief Financial Officer, perform the duties and exercise the powers of the Chief Financial Officer, subject to the power of the board of directors. The Treasurer, if any, shall perform such other duties and have such other powers as the board of directors may, from time to time, prescribe.

Section 11. Appointed Officers. In addition to officers designated by the Board in accordance with this ARTICLE IV, the Chief Executive Officer shall have the authority to appoint other officers below the level of Board-appointed Vice President as the Chief Executive Officer may from time to time deem expedient and may designate for such officers titles that appropriately reflect their positions and responsibilities. Such appointed officers shall have such powers and shall perform such duties as may be assigned to them by the Chief Executive Officer or the senior officer to whom they report, consistent with corporate policies. An appointed officer shall serve until the earlier of such officer's resignation or such officer's removal by the Chief Executive Officer or the Board of Directors at any time, either with or without cause.

Section 12. Other Officers, Assistant Officers and Agents. Officers, assistant officers and agents, if any, other than those whose duties are provided for in these Bylaws, shall have such authority and perform such duties as may from time to time be prescribed by resolution of the Board of Directors and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board of Directors.

Section 13. Officers' Bonds or Other Security. If required by the Board of Directors, any officer of the Corporation shall give a bond or other security for the faithful performance of his duties, in such amount and with such surety as the Board of Directors may require.

Section 14. Delegation of Authority. The Board of Directors may by resolution delegate the powers and duties of such officer to any other officer or to any director, or to any other person whom it may select.

ARTICLE V CERTIFICATES OF STOCK

Section 1. Form. The shares of stock of the Corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. If shares are represented by certificates, the certificates shall be in such form as required by applicable law and as determined by the Board of Directors. Each certificate shall certify the number of shares owned by such holder in the Corporation and shall be signed by, or in the name of the Corporation by two authorized officers of the Corporation including, but not limited to, the Chair of the Board (if an officer), the Chief Executive Officer, the President, a Vice President, the Chief Financial Officer, the Treasurer, the Secretary and an Assistant Secretary of the Corporation. Any or all signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed, or whose facsimile signature or signatures have been used on, any such certificate or certificates shall cease to be such officer, transfer agent or registrar of the Corporation whether because of death, resignation or otherwise before such certificate or certificates have been issued by the Corporation, such certificate or certificates may nevertheless be issued as though the person or persons who signed such certificate or certificates or whose facsimile signature or signatures have been used thereon had not ceased to be such officer, transfer agent or registrar of the Corporation at the date of issue. All certificates for shares shall be consecutively numbered or otherwise identified. The Board of Directors may appoint a bank or trust company organized under the laws of the United States or any state thereof to act as its transfer agent or registrar, or both in

connection with the transfer of any class or series of securities of the Corporation. The Corporation, or its designated transfer agent or other agent, shall keep a book or set of books to be known as the stock transfer books of the Corporation, containing the name of each holder of record, together with such holder's address and the number and class or series of shares held by such holder and the date of issue. When shares are represented by certificates, the Corporation shall issue and deliver to each holder to whom such shares have been issued or transferred, certificates representing the shares owned by such holder, and shares of stock of the Corporation shall only be transferred on the books of the Corporation by the holder of record thereof or by such holder's attorney duly authorized in writing, upon surrender to the Corporation or its designated transfer agent or other agent of the certificate or certificates for such shares endorsed by the appropriate person or persons, with such evidence of the authenticity of such endorsement, transfer, authorization and other matters as the Corporation may reasonably require, and accompanied by all necessary stock transfer stamps. In that event, it shall be the duty of the Corporation to issue a new certificate to the person entitled thereto, cancel the old certificate or certificates and record the transaction on its books. When shares are not represented by certificates, shares of stock of the Corporation shall only be transferred on the books of the Corporation by the holder of record thereof or by such holder's attorney duly authorized in writing, with such evidence of the authenticity of such transfer, authorization and other matters as the Corporation may reasonably require, and accompanied by all necessary stock transfer stamps, and within a reasonable time after the issuance or transfer of such shares, the Corporation shall, if required by applicable law, send the holder to whom such shares have been issued or transferred a written statement of the information required by applicable law. Unless otherwise provided by applicable law, the Certificate of Incorporation, Bylaws or any other instrument, the rights and obligations of the holders of uncertificated stock and the rights and obligations of the holders of certificates representing stock of the same class and series shall be identical.

Section 2. Lost Certificates. The Corporation may issue or direct a new certificate or certificates or uncertificated shares to be issued in place of any certificate or certificates previously issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the owner of the lost, stolen or destroyed certificate. When authorizing such issue of a new certificate or certificates or uncertificated shares, the Corporation may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his or her legal representative, to give the Corporation a bond in such sum as it may direct, sufficient to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

Section 3. Registered Stockholders. The Corporation shall be entitled to recognize the exclusive right of a person registered on its records as the owner of shares of stock to receive dividends, to vote, to receive notifications and otherwise to exercise all the rights and powers of an owner, except as otherwise required by applicable law. The Corporation shall not be bound to recognize any equitable or other claim to or interest in such share or shares of stock on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise required by applicable law.

Section 4. Fixing a Record Date for Purposes Other Than Stockholder Meetings or Actions by Written Consent. In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment or any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purposes of any other lawful action (other than stockholder meetings and stockholder consents which are expressly governed by Sections 12 and 13 of ARTICLE II hereof), the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

ARTICLE VI GENERAL PROVISIONS

Section 1. Dividends. Subject to and in accordance with applicable law, the Certificate of Incorporation and any certificate of designation relating to any series of preferred stock, dividends upon the shares of capital stock of the Corporation may be declared and paid by the Board of Directors, in accordance with applicable law. Dividends may be paid in cash, in property or in shares of the Corporation's capital stock, subject to the provisions of applicable law and the Certificate of Incorporation. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends a reserve or reserves for any proper purpose. The Board of Directors may modify or abolish any such reserves in the manner in which they were created.

Section 2. Checks, Notes, Drafts, Etc. All checks, notes, drafts or other orders for the payment of money of the Corporation shall be signed, endorsed or accepted in the name of the Corporation by such officer, officers, person or persons as from time to time may be designated by the Board of Directors or by an officer or officers authorized by the Board of Directors to make such designation.

Section 3. Contracts. In addition to the powers otherwise granted to officers pursuant to ARTICLE IV hereof, the Board of Directors may authorize any officer or officers, or any agent or agents, in the name and on behalf of the Corporation to enter into or execute and deliver any and all deeds, bonds, mortgages, contracts and other obligations or instruments, and such authority may be general or confined to specific instances.

Section 4. Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

Section 5. Corporate Seal. The Board of Directors may provide a corporate seal which shall be in the form of a circle and shall have inscribed thereon the name of the Corporation and the words "Corporate Seal, Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise. Notwithstanding the foregoing, no seal shall be required by virtue of this Section.

Section 6. Voting Securities Owned By Corporation. Voting securities in any other corporation or entity held by the Corporation shall be voted by the Chair of the Board, Chief Executive Officer, the President or the Chief Financial Officer, unless the Board of Directors specifically confers authority to vote with respect thereto, which authority may be general or confined to specific instances, upon some other person or officer. Any person authorized to vote securities shall have the power to appoint proxies, with general power of substitution.

Section 7. Facsimile/Electronic Signatures. In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these Bylaws, docusign, facsimile and other forms of electronic signatures of any officer or director of the Corporation may be used to the fullest extent permitted by applicable law.

Section 8. Section Headings. Section headings in these Bylaws are for convenience of reference only and shall not be given any substantive effect in limiting or otherwise construing any provision herein.

Section 9. Inconsistent Provisions. In the event that any provision (or part thereof) of these Bylaws is or becomes inconsistent with any provision of the Certificate of Incorporation, the DGCL, any other applicable law or the Nomination Agreement, the provision (or part thereof) of these Bylaws shall be construed to be consistent with such other provision or provisions, and to the extent such provision may not be so construed, such provision shall be deemed amended to incorporate such other provision so as to eliminate any such inconsistency and as so amended shall be given full force and effect.

ARTICLE VII INDEMNIFICATION

Section 1. Right to Indemnification and Advancement. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved (including involvement, without limitation, as a witness) in any actual or threatened action, suit or proceeding, whether civil, criminal, administrative or investigative (a “proceeding”), by reason of the fact that he or she is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, manager, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (an “indemnitee”), whether the basis of such proceeding is alleged action in an official capacity as a director or officer or in any other capacity while serving as a director or officer, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than permitted prior thereto), against all expense, liability and loss (including attorneys’ fees and related disbursements, judgments, fines, excise taxes or penalties under the Employee Retirement Income Security Act of 1974, as amended from time to time (“ERISA”) and any other penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the indemnitee’s heirs, executors and administrators; provided, however, that, except as provided in this Section 2 of this ARTICLE VII with respect to proceedings to enforce rights to indemnification and advance of expenses (as defined below), the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof)

was authorized in the specific case by the Board of Directors of the Corporation. In addition to the right to indemnification conferred herein, an indemnitee shall also have the right, to the fullest extent not prohibited by law, to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition (an “advance of expenses”); provided, however, that if and to the extent that the DGCL requires, an advance of expenses shall be made only upon delivery to the Corporation of an undertaking (an “undertaking”), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (a “final adjudication”) that such indemnitee is not entitled to be indemnified for such expenses under this Section 1 or otherwise. The Corporation may also, by action of its Board of Directors, provide indemnification and advancement to employees and agents of the Corporation. Any reference to an officer of the Corporation in this ARTICLE VII shall be deemed to refer exclusively to the Chair of the Board of Directors, Chief Executive Officer, President, Secretary and Treasurer of the Corporation appointed pursuant to ARTICLE IV, and to any Vice President, Assistant Secretary, Assistant Treasurer or other officer of the Corporation appointed by the Board of Directors pursuant to ARTICLE IV of these By-laws, and any reference to an officer of any other enterprise shall be deemed to refer exclusively to an officer appointed by the board of directors or equivalent governing body of such other entity pursuant to the certificate of incorporation and bylaws or equivalent organizational documents of such other enterprise. The fact that any person who is or was an employee of the Corporation or an employee of any other enterprise has been given or has used the title of “Vice President” or any other title, including any title granted to such person by the Chief Executive Officer pursuant to ARTICLE IV, Section 11, that could be construed to suggest or imply that such person is or may be an officer of the Corporation or of such other enterprise shall not result in such person being constituted as, or being deemed to be, an officer of the Corporation or of such other enterprise for purposes of this ARTICLE VII unless such person’s appointment to such office was approved by the Board of Directors pursuant to ARTICLE IV.

Section 2. Procedure for Indemnification. Any claim for indemnification or advance of expenses by an indemnitee under this Section 2 of ARTICLE VII shall be made promptly, and in any event within forty-five days (or, in the case of an advance of expenses, twenty days, provided that the director or officer has delivered the undertaking contemplated by Section 1 of this ARTICLE VII if required), upon the written request of the indemnitee. If the Corporation denies a written request for indemnification or advance of expenses, in whole or in part, or if payment in full pursuant to such request is not made within forty-five days (or, in the case of an advance of expenses, twenty days, provided that the indemnitee has delivered the undertaking contemplated by Section 1 of this ARTICLE VII if required), the right to indemnification or advances as granted by this ARTICLE VII shall be enforceable by the indemnitee in any court of competent jurisdiction. Such person’s costs and expenses incurred in connection with successfully establishing his or her right to indemnification, in whole or in part, in any such action shall also be indemnified by the Corporation to the fullest extent permitted by applicable law. It shall be a defense to any such action (other than an action brought to enforce a claim for the advance of expenses where the undertaking required pursuant to Section 1 of this ARTICLE VII, if any, has been tendered to the Corporation) that the claimant has not met the applicable standard of conduct which make it permissible under the DGCL for the Corporation to indemnify the claimant for the amount claimed, but the burden of proof shall be on the Corporation to the fullest extent permitted by law. Neither the failure of the Corporation (including its Board of Directors, a committee thereof, independent legal counsel or its stockholders) to have made a determination prior to the

commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

Section 3. Insurance. The Corporation may purchase and maintain insurance on its own behalf and on behalf of any person who is or was or has agreed to become a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, partner, member, trustee, administrator, employee or agent of another corporation, partnership, joint venture, limited liability company, trust or other enterprise against any expense, liability or loss asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify such person against such expenses, liability or loss under the DGCL.

Section 4. Service for Subsidiaries. Any person serving as a director, officer, partner, member, trustee, administrator, employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise, at least 50% of whose equity interests are owned by the Corporation (a “subsidiary” for purposes of this ARTICLE VII) shall be conclusively presumed to be serving in such capacity at the request of the Corporation.

Section 5. Reliance. Persons who after the date of the adoption of this provision become or remain directors or officers of the Corporation or who, while a director or officer of the Corporation, become or remain a director, manager, officer, employee or agent of a subsidiary, shall be conclusively presumed to have relied on the rights to indemnity, advance of expenses and other rights contained in this ARTICLE VII in entering into or continuing such service. To the fullest extent permitted by law, the rights to indemnification and to the advance of expenses conferred in this ARTICLE VII shall apply to claims made against an indemnitee arising out of acts or omissions which occurred or occur both prior and subsequent to the adoption hereof. Any amendment, alteration or repeal of this ARTICLE VII that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit, eliminate, or impair any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment or repeal.

Section 6. Non-Exclusivity of Rights; Continuation of Rights of Indemnification. The rights to indemnification and to the advance of expenses conferred in this ARTICLE VII shall not be exclusive of any other right which any person may have or hereafter acquire under the Certificate of Incorporation or under any statute, by-law, agreement, vote of stockholders or disinterested directors or otherwise. All rights to indemnification under this ARTICLE VII shall be deemed to be a contract between the Corporation and each director or officer of the Corporation who serves or served in such capacity at any time while this ARTICLE VII is in effect. Any repeal or modification of this ARTICLE VII or repeal or modification of relevant provisions of the DGCL or any other applicable laws shall not in any way diminish any rights to indemnification and advancement of expenses of such director or officer or the obligations of the Corporation arising hereunder with respect to any proceeding arising out of, or relating to, any actions, transactions or facts occurring prior to the final adoption of such repeal or modification.

Section 7. **Merger or Consolidation.** For purposes of this ARTICLE VII, references to the “Corporation” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this ARTICLE VII with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

Section 8. **Savings Clause.** To the fullest extent permitted by law, if this ARTICLE VII or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and advance expenses to each person entitled to indemnification under Section 1 of this ARTICLE VII as to all expense, liability and loss (including attorneys' fees and related disbursements, judgments, fines, ERISA excise taxes and penalties and any other penalties and amounts paid or to be paid in settlement) actually and reasonably incurred or suffered by such person and for which indemnification and advancement of expenses is available to such person pursuant to this ARTICLE VII to the fullest extent permitted by any applicable portion of this ARTICLE VII that shall not have been invalidated.

ARTICLE VIII AMENDMENTS

These Bylaws may be amended, altered, changed or repealed or new Bylaws adopted only in accordance with Section 1 of ARTICLE TEN of the Certificate of Incorporation.

* * * * *

A.K.A. BRANDS HOLDING CORP.
REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this “Agreement”) is made as of September 24, 2021 among a.k.a. Brands Holding Corp, a Delaware corporation (the “Company”), each of the investors listed on the signature pages hereto under the caption “Sponsor Investors” (collectively, the “Sponsor Investors”), each Person listed on the signature pages under the caption “Other Investors” or who executes a Joinder as an “Other Investor” (collectively, the “Other Investors”) and each of the executives listed on the signature pages under the caption “Executives” or who executes a Joinder as an “Executive” (collectively, the “Executives”). Except as otherwise specified herein, all capitalized terms used in this Agreement are defined in Exhibit A attached hereto.

In consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

Section 1 Demand Registrations.

(a) Requests for Registration. At any time and from time to time, the Sponsor Investors may request registration under the Securities Act of all or any portion of their Registrable Securities on Form S-1 or any similar long-form registration statement (“Long-Form Registrations”) or on Form S-3 or any similar short-form registration statement (“Short-Form Registrations”), if available (any such requested registration, a “Demand Registration”). On and after the four (4) year anniversary of the date hereof, the Other Investors may each request one (1) Demand Registration for all or any portion of their Registrable Securities. The Sponsor Investors and Other Investors may request that any Demand Registration be made pursuant to Rule 415 under the Securities Act (a “Shelf Registration”) and (if the Company is a Wksi at the time any such request is submitted to the Company or will become one by the time of the filing of such Shelf Registration) that such Shelf Registration be an automatic shelf registration statement (as defined in Rule 405 under the Securities Act) (an “Automatic Shelf Registration Statement”). Each request for a Demand Registration must specify the approximate number or dollar value of Registrable Securities requested to be registered by the requesting Holders and (if known) the intended method of distribution. The Sponsor Investors will be entitled to request an unlimited number of Demand Registrations. The Company will pay all Registration Expenses, whether or not any such registration is consummated.

(b) Notice to Other Investors. Within four (4) Business Days after receipt of any such request, the Company will give written notice of the Demand Registration to all other Holders and, subject to the terms of Section 1(e), will include in such Demand Registration (and in all related registrations and qualifications under state blue sky laws and in any related underwriting) all Registrable Securities with respect to which the Company has received written requests for inclusion therein within ten (10) days after the receipt of the Company’s notice; provided that, with the written consent of the Sponsor Investor and Bryett, the Company may, or at the written request of the Sponsor Investors, the Company shall, instead provide notice of the Demand Registration to all Other Investors within three (3) Business Days following the non-confidential filing of the registration statement with respect to the Demand Registration so long as such registration statement is not an Automatic Shelf Registration Statement.

(c) Form of Registrations. All Long-Form Registrations will be underwritten registrations unless otherwise approved by the Sponsor Investor. Demand Registrations will be Short-Form Registrations whenever the Company is permitted to use any applicable short form unless otherwise requested by the Sponsor Investor.

(d) Shelf Registrations.

(i) For so long as a registration statement for a Shelf Registration (a “Shelf Registration Statement”) is and remains effective, the Sponsor Investors and Other Investors will have the right at any time or from time to time to elect to sell pursuant to an offering (including an underwritten offering Registrable Securities available for sale pursuant to such registration statement (“Shelf Registrable Securities”). If the Sponsor Investors or Other Investors desire to sell Registrable Securities pursuant to an

underwritten offering, then the Sponsor Investors or Other Investors may deliver to the Company a written notice (a “Shelf Offering Notice”) specifying the number of Shelf Registrable Securities that the Sponsor Investors or Other Investors desire to sell pursuant to such underwritten offering (the “Shelf Offering”). As promptly as practicable, but in no event later than two (2) Business Days after receipt of a Shelf Offering Notice, the Company will give written notice of such Shelf Offering Notice to all other Holders of Shelf Registrable Securities that have been identified as selling stockholders in such Shelf Registration Statement and are otherwise permitted to sell in such Shelf Offering, which such notice shall request that each such Holder specify, within seven (7) days after the Company’s receipt of the Shelf Offering Notice, the maximum number of Shelf Registrable Securities such Holder desires to be disposed of in such Shelf Offering. The Company, subject to Section 1(e) and Section 7, will include in such Shelf Offering all Shelf Registrable Securities with respect to which the Company has received timely written requests for inclusion. The Company will, as expeditiously as possible (and in any event within fourteen (14) days after the receipt of a Shelf Offering Notice), but subject to Section 1(e), use its best efforts to consummate such Shelf Offering.

(ii) If the Sponsor Investors or Other Investors desire to engage in an underwritten block trade or bought deal pursuant to a Shelf Registration Statement (either through filing an Automatic Shelf Registration Statement or through a take-down from an already existing Shelf Registration Statement) (each, an “Underwritten Block Trade”), then notwithstanding the time periods set forth in Section 1(d)(i), the Sponsor Investors or Other Investors may notify the Company of the Underwritten Block Trade not less than two (2) Business Days prior to the day such offering is first anticipated to commence. If requested by the Sponsor Investors, the Company will promptly notify other Holders of such Underwritten Block Trade and such notified Holders (each, a “Potential Participant”) may elect whether or not to participate no later than the next Business Day (*i.e.* one (1) Business Day prior to the day such offering is to commence) (unless a longer period is agreed to by the Sponsor Investors or Other Investors that initiated the Demand Registration), and the Company will as expeditiously as possible use its best efforts to facilitate such Underwritten Block Trade (which may close as early as two (2) Business Days after the date it commences); provided further that, notwithstanding the provisions of Section 1(d)(i), no Holder (other than Holders of Sponsor Investor Registrable Securities) will be permitted to participate in an Underwritten Block Trade without the written consent of the Sponsor Investor or Other Investors that initiated the Demand Registration. Any Potential Participant’s request to participate in an Underwritten Block Trade shall be binding on the Potential Participant.

(iii) All determinations as to whether to complete any Shelf Offering and as to the timing, manner, price and other terms of any Shelf Offering contemplated by this Section 1(d) shall be determined by the Sponsor Investors or Other Investors that initiated the Demand Registration, and the Company shall use its best efforts to cause any Shelf Offering to occur in accordance with such determinations as practicable.

(iv) The Company will, at the request of the Sponsor Investors or Other Investors, as applicable, file any prospectus supplement or any post-effective amendments and otherwise take any action necessary to include therein all disclosure and language deemed necessary or advisable by the Sponsor Investors or Other Investors, as applicable, to effect such Shelf Offering.

(e) Priority on Demand Registrations and Shelf Offerings. The Company will not include in any Demand Registration any securities which are not Registrable Securities without the prior written consent of the Sponsor Investors or Other Investors that initiated the Demand Registration. If a Demand Registration or a Shelf Offering is an underwritten offering and the managing underwriters advise the Company in writing that in their opinion the number of Registrable Securities and (if permitted hereunder) other securities requested to be included in such offering exceeds the number of Registrable Securities and other securities (if any), which can be sold therein without adversely affecting the marketability, proposed offering price, timing or method of distribution of the offering, then the Company will include in such offering (prior to the inclusion of any securities which are not Registrable Securities) the number of Registrable Securities requested to be included by any Holders which, in the opinion of such underwriters,

can be sold, without any such adverse effect, pro rata among such Holders on the basis of the number of Registrable Securities owned by each such Holder. Notwithstanding anything to the contrary herein, if any Holders of Executive Registrable Securities have requested to include such securities in an underwritten offering and the managing underwriters for such offering advise the Company that in their opinion the inclusion of some or all of such Executive Registrable Securities could adversely affect the marketability, proposed offering price, timing and/or method of distribution of the offering, then the Company shall exclude from such offering the number of such Executive Registrable Securities identified by the managing underwriters as having any such adverse effect prior to the exclusion of any Registrable Securities of any other Holders as set forth in this Section 1(e), which, for the avoidance of doubt, may be all such Executive Registrable Securities requested to be included such offering.

(f) Restrictions on Demand Registration and Shelf Offerings.

(i) The Company may postpone, for up to 60 days (or with the consent of the Sponsor Investors or Other Investor that initiated the Demand Registration, a longer period) from the date of the request (the “Suspension Period”), the filing or the effectiveness of a registration statement for a Demand Registration or suspend the use of a prospectus that is part of a Shelf Registration Statement (and therefore suspend sales of the Shelf Registrable Securities) by providing written notice to the Holders if the following conditions are met: (A) the Company determines that the offer or sale of Registrable Securities would reasonably be expected to have a material adverse effect on any proposal or plan by the Company or any Subsidiary to engage in any material acquisition of assets or stock (other than in the ordinary course of business) or any material merger, consolidation, tender offer, recapitalization, reorganization, financing or other transaction involving the Company and (B) upon advice of counsel, the sale of Registrable Securities pursuant to the registration statement would require disclosure of material non-public information not otherwise required to be disclosed under applicable law, and either (x) the Company has a bona fide business purpose for preserving the confidentiality of such transaction, (y) disclosure would have a material adverse effect on the Company or the Company’s ability to consummate such transaction, or (z) such transaction renders the Company unable to comply with SEC requirements, in each case under circumstances that would make it impractical or inadvisable to cause the registration statement (or such filings) to become effective or to promptly amend or supplement the registration statement on a post effective basis, as applicable. The Company may delay or suspend the effectiveness of a Demand Registration or Shelf Registration Statement pursuant to this Section 1(f)(i) only once in any twelve (12)-month period (for avoidance of doubt, in addition to the Company’s rights and obligations under Section 4(a)(vi)) unless additional delays or suspensions are approved by the Sponsor Investors or Other Investor that initiated the Demand Registration.

(ii) In the case of an event that causes the Company to suspend the use of a Shelf Registration Statement as set forth in Section 1(f)(i) above or pursuant to Section 4(a)(vi) (a “Suspension Event”), the Company will give a notice to the Holders whose Registrable Securities are registered pursuant to such Shelf Registration Statement (a “Suspension Notice”) to suspend sales of the Registrable Securities and such notice must state generally the basis for the notice and that such suspension will continue only for so long as the Suspension Event or its effect is continuing. Each Holder agrees not to effect any sales of its Registrable Securities pursuant to such Shelf Registration Statement (or such filings) at any time after it has received a Suspension Notice from the Company and prior to receipt of an End of Suspension Notice. A Holder may recommence effecting sales of the Registrable Securities pursuant to the Shelf Registration Statement (or such filings) following further written notice to such effect (an “End of Suspension Notice”) from the Company, which End of Suspension Notice will be given by the Company to the Holders promptly following the conclusion of any Suspension Event (and in any event during the permitted Suspension Period).

(g) Selection of Underwriters. The legal counsel to the Company, the investment banker(s) and manager(s) to administer any underwritten offering in connection with any Demand Registration or Shelf Offering shall be selected by the Sponsor Investors or Other Investor that initiated the Demand Registration.

(h) **Other Registration Rights.** Except as provided in this Agreement, the Company will not grant to any Person(s) the right to request the Company or any Subsidiary to register any equity securities of the Company or any Subsidiary, or any securities convertible or exchangeable into or exercisable for such securities, without the prior written consent of the Sponsor Investors; **provided** that, with the prior approval of the Sponsor Investors, the Company may grant rights to employees of the Company and its Subsidiaries to participate in Piggyback Registrations so long as they sign a Joinder as an “Executive” and Holder of “Executive Registrable Securities” hereunder.

(i) **Revocation of Demand Notice or Shelf Offering Notice.** At any time prior to the effective date of the registration statement relating to a Demand Registration or the “pricing” of any offering relating to a Shelf Offering Notice, the Sponsor Investors may revoke or withdraw such notice of a Demand Registration or Shelf Offering Notice on behalf of all Holders participating in such Demand Registration or Shelf Offering without liability to such Holders, in each case by providing written notice to the Company.

(j) **Confidentiality.** Each Holder agrees to treat as confidential the receipt of any notice hereunder (including notice of a Demand Registration, a Shelf Offering Notice and a Suspension Notice) and the information contained therein, and not to disclose or use the information contained in any such notice (or the existence thereof) without the prior written consent of the Company until such time as the information contained therein is or becomes available to the public generally (other than as a result of disclosure by such Holder in breach of the terms of this Agreement).

Section 2 Piggyback Registrations.

(a) **Right to Piggyback.** Whenever the Company proposes to register any of its equity securities under the Securities Act (including primary and secondary registrations, and other than pursuant to an Excluded Registration) (a “**Piggyback Registration**”), the Company will give prompt written notice (and in any event within three (3) Business Days after the public filing of the registration statement relating to the Piggyback Registration) to all Holders of its intention to effect such Piggyback Registration and, subject to the terms of **Section 2(b)** and **Section 2(c)**, will include in such Piggyback Registration (and in all related registrations or qualifications under blue sky laws and in any related underwriting) all Registrable Securities with respect to which the Company has received written requests for inclusion therein within ten (10) days after delivery of the Company’s notice. The Sponsor Investor may withdraw its request for inclusion at any time prior to executing the underwriting agreement, or if none, prior to the applicable registration statement becoming effective.

(b) **Priority on Primary Registrations.** If a Piggyback Registration is an underwritten primary registration on behalf of the Company, and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number which can be sold in such offering without adversely affecting the marketability, proposed offering price, timing or method of distribution of the offering, the Company will include in such registration (i) **first**, the securities the Company proposes to sell, (ii) **second**, any Registrable Securities requested to be included in such registration by any Holder which, in the opinion of the underwriters, can be sold without any such adverse effect, pro rata among such Holders on the basis of the number of Registrable Securities owned by each such Holder, and (iii) **third**, other securities requested to be included in such registration which, in the opinion of the underwriters, can be sold without any such adverse effect. Notwithstanding anything to the contrary herein, if any Holders of Executive Registrable Securities have requested to include such securities in a Piggyback Registration that is an underwritten primary offering on behalf of the Company and the managing underwriters for such offering advise the Company in writing that in their opinion the inclusion of some or all of such Executive Registrable Securities could adversely affect the marketability, proposed offering price, timing and/or method of distribution of the offering, the Company shall first exclude from such offering the number (which may be all) of such Executive Registrable Securities identified by the managing underwriters as having any such adverse effect prior to the exclusion of any securities in such offering.

(c) **Priority on Secondary Registrations.** If a Piggyback Registration is an underwritten secondary registration on behalf of holders of the Company's equity securities (other than pursuant to Section 1 hereof), and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number which can be sold in such offering without adversely affecting the marketability, proposed offering price, timing or method of distribution of the offering, the Company will include in such registration (i) first, the securities requested to be included therein by the holders initially requesting such registration which, in the opinion of the underwriters, can be sold without any such adverse effect, (ii) second, any Registrable Securities requested to be included in such registration by any Holder, pro rata among such Holders on the basis of the number of Registrable Securities owned by each such Holder which, in the opinion of the underwriters, can be sold without any such adverse effect, and (iv) third, other securities requested to be included in such registration which, in the opinion of the underwriters, can be sold without any such adverse effect. Notwithstanding anything to the contrary herein, if any Holders of Executive Registrable Securities have requested to include such securities in a Piggyback Registration that is an underwritten secondary offering and the managing underwriters for such offering advise the Company in writing that in their opinion the inclusion of some or all of such Executive Registrable Securities could adversely affect the marketability, proposed offering price, timing or method of distribution of the offering, the Company shall be permitted to first exclude from such offering the number (which may be all) of such Executive Registrable Securities identified by the managing underwriters as having any such adverse effect prior to the exclusion of any securities in such offering.

(d) **Right to Terminate Registration.** The Company will have the right to terminate or withdraw any registration initiated by it under this Section 2, whether or not any holder of Registrable Securities has elected to include securities in such registration.

(e) **Selection of Underwriters.** If any Piggyback Registration is an underwritten offering, the legal counsel for the Company, the investment banker(s) and manager(s) for the offering shall be selected by the Sponsor Investors.

Section 3 Stockholder Lock-Up Agreements and Company Holdback Agreement.

(a) **Stockholder Lock-up Agreements.** In connection with any underwritten Public Offering, each Holder will enter into any lock-up, holdback or similar agreements requested by the underwriter(s) managing such offering, in each case with such modifications and exceptions as may be approved by the Sponsor Investors. Without limiting the generality of the foregoing, each Holder hereby agrees that in connection with the initial Public Offering and in connection with any Demand Registration, Shelf Offering or Piggyback Registration that is an underwritten Public Offering, not to (i) offer, sell, contract to sell, pledge or otherwise dispose of (including sales pursuant to Rule 144), directly or indirectly, any equity securities of the Company (including equity securities of the Company that may be deemed to be beneficially owned by such Holder in accordance with the rules and regulations of the SEC) (collectively, "Securities"), or any securities, options or rights convertible into or exchangeable or exercisable for Securities (collectively, "Other Securities"), (ii) enter into a transaction which would have the same effect as described in clause (i) above, (iii) enter into any swap, hedge or other arrangement that transfers, in whole or in part, any of the economic consequences or ownership of any Securities or Other Securities, whether such transaction is to be settled by delivery of such Securities or Other Securities, in cash or otherwise (each of (i), (ii) and (iii) above, a "Sale Transaction"), or (iv) publicly disclose the intention to enter into any Sale Transaction, commencing on the date on which the Company gives notice to the Holders that a preliminary prospectus has been circulated for such underwritten Public Offering or the "pricing" of such offering and continuing to the date that is (x) 180 days following the date of the final prospectus for such underwritten Public Offering in the case of the initial Public Offering or (y) 90 days following the date of the final prospectus in the case of any other such underwritten Public Offering (each such period, or such shorter period as agreed to by the managing underwriters, a "Holdback Period"), in each case with such modifications and exceptions as may be approved by the Sponsor Investors. The Company may impose stop-transfer instructions with respect to any Securities or Other Securities subject to the restrictions set forth in this Section 3(a) until the end of such Holdback Period.

(b) **Company Holdback Agreement.** The Company (i) will not file any registration statement for a Public Offering or cause any such registration statement to become effective, or effect any public sale or distribution of its Securities or Other Securities during any Holdback Period (other than as part of such underwritten Public Offering, or a registration on Form S-4 or Form S-8 or any successor or similar form which is (x) then in effect or (y) shall become effective upon the conversion, exchange or exercise of any then outstanding Other Securities) and (ii) will cause each holder of Securities and Other Securities (including each of its directors and executive officers) to agree not to effect any Sale Transaction during any Holdback Period, except as part of such underwritten registration (if otherwise permitted), unless approved in writing by the Sponsor Investors and the underwriters managing the Public Offering and to enter into any lock-up, holdback or similar agreements requested by the underwriter(s) managing such offering, in each case with such modifications and exceptions as may be approved by the Sponsor Investors.

Section 4 Registration Procedures.

(a) **Company Obligations.** Whenever the Holders have requested that any Registrable Securities be registered pursuant to this Agreement or have initiated a Shelf Offering, the Company will use its best efforts to effect the registration and the sale of such Registrable Securities in accordance with the intended method of disposition thereof, and pursuant thereto the Company will as expeditiously as possible:

(i) prepare and file with (or submit confidentially to) the SEC a registration statement, and all amendments and supplements thereto and related prospectuses, with respect to such Registrable Securities and use its best efforts to cause such registration statement to become effective, all in accordance with the Securities Act and all applicable rules and regulations promulgated thereunder (provided that before filing or confidentially submitting a registration statement or prospectus or any amendments or supplements thereto, the Company will furnish to the counsel selected by the Sponsor Investors covered by such registration statement copies of all such documents proposed to be filed or submitted, which documents will be subject to the review and comment of such counsel);

(ii) notify each Holder of (A) the issuance by the SEC of any stop order suspending the effectiveness of any registration statement or the initiation of any proceedings for that purpose, (B) the receipt by the Company or its counsel of any notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose, and (C) the effectiveness of each registration statement filed hereunder;

(iii) prepare and file with the SEC such amendments and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective for a period ending when all of the securities covered by such registration statement have been disposed of in accordance with the intended methods of distribution by the sellers thereof set forth in such registration statement (but not in any event before the expiration of any longer period required under the Securities Act or, if such registration statement relates to an underwritten Public Offering, such longer period as in the opinion of counsel for the underwriters a prospectus is required by law to be delivered in connection with sale of Registrable Securities by an underwriter or dealer) and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement during such period in accordance with the intended methods of disposition by the sellers thereof set forth in such registration statement;

(iv) furnish, without charge, to each seller of Registrable Securities thereunder and each underwriter, if any, such number of copies of such registration statement, each amendment and supplement thereto, the prospectus included in such registration statement (including each preliminary prospectus) (in each case including all exhibits and documents incorporated by reference therein), each amendment and supplement thereto, each Free Writing Prospectus and such other documents as such seller or underwriter, if any, may reasonably request in order to facilitate the disposition of the Registrable Securities owned by such seller (the Company hereby consenting to the use in accordance with all applicable laws of each such registration statement, each such amendment and supplement thereto, and each such prospectus (or preliminary prospectus or supplement thereto) or Free Writing Prospectus by each such seller of Registrable Securities and the underwriters, if any, in connection with the offering and sale of the Registrable Securities covered by such registration statement or prospectus);

(v) use its best efforts to register or qualify such Registrable Securities under such other securities or blue sky laws of such jurisdictions as any seller reasonably requests and do any and all other acts and things which may be reasonably necessary or advisable to enable such seller to consummate the disposition in such jurisdictions of the Registrable Securities owned by such seller (provided that the Company will not be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this subparagraph or (B) consent to general service of process in any such jurisdiction or (C) subject itself to taxation in any such jurisdiction);

(vi) notify in writing each seller of such Registrable Securities (A) promptly after it receives notice thereof, of the date and time when such registration statement and each posteffective amendment thereto has become effective or a prospectus or supplement to any prospectus relating to a registration statement has been filed and when any registration or qualification has become effective under a state securities or blue sky law or any exemption thereunder has been obtained, (B) promptly after receipt thereof, of any request by the SEC for the amendment or supplementing of such registration statement or prospectus or for additional information, and (C) at any time when a prospectus relating thereto is required to be delivered under the Securities Act, of the happening of any event or of any information or circumstances as a result of which the prospectus included in such registration statement contains an untrue statement of a material fact or omits any fact necessary to make the statements therein not misleading, and, subject to Section 1(f), if required by applicable law or to the extent requested by the Sponsor Investor, the Company will use its best efforts to promptly prepare and file a supplement or amendment to such prospectus so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus will not contain an untrue statement of a material fact or omit to state any fact necessary to make the statements therein not misleading and (D) if at any time the representations and warranties of the Company in any underwriting agreement, securities sale agreement, or other similar agreement, relating to the offering shall cease to be true and correct;

(vii) (A) use best efforts to cause all such Registrable Securities to be listed on each securities exchange on which similar securities issued by the Company are then listed and, if not so listed, to be listed on a securities exchange and, without limiting the generality of the foregoing, to arrange for at least two market makers to register as such with respect to such Registrable Securities with FINRA, and (B) comply (and continue to comply) with the requirements of any self-regulatory organization applicable to the Company, including without limitation all corporate governance requirements;

(viii) use best efforts to provide a transfer agent and registrar for all such Registrable Securities not later than the effective date of such registration statement;

(ix) enter into and perform such customary agreements (including, as applicable, underwriting agreements in customary form) and take all such other actions as the Sponsor Investors or the underwriters, if any, reasonably request in order to expedite or facilitate the disposition of such Registrable Securities (including, without limitation, making available the executive officers of the Company and participating in “road shows,” investor presentations, marketing events and other selling efforts and effecting a stock or unit split or combination, recapitalization or reorganization);

(x) make available for inspection by any seller of Registrable Securities, any underwriter participating in any disposition or sale pursuant to such registration statement and any attorney, accountant or other agent retained by any such seller or underwriter, all financial and other records, pertinent corporate and business documents and properties of the Company as will be necessary to enable them to exercise their due diligence responsibility, and cause the Company’s officers, directors, employees, agents, representatives and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant or agent in connection with such registration statement and the disposition of such Registrable Securities pursuant thereto;

(xi) take all actions to ensure that any Free-Writing Prospectus utilized in connection with any Demand Registration or Piggyback Registration or Shelf Offering hereunder complies in all material respects with the Securities Act, is filed in accordance with the Securities Act to the extent required thereby, is retained in accordance with the Securities Act to the extent required thereby and, when taken together with the related prospectus, prospectus supplement and related documents, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(xii) otherwise use its best efforts to comply with all applicable rules and regulations of the SEC, and make available to its security holders, as soon as reasonably practicable, an earnings statement covering the period of at least twelve (12) months beginning with the first day of the Company's first full calendar quarter after the effective date of the registration statement, which earnings statement will satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder;

(xiii) permit any Holder which, in its sole and exclusive judgment, might be deemed to be an underwriter or a controlling person of the Company, to participate in the preparation of such registration or comparable statement and to allow such Holder to provide language for insertion therein, in form and substance satisfactory to the Company, which in the reasonable judgment of such Holder and its counsel should be included;

(xiv) use best efforts to (A) make Short-Form Registration available for the sale of Registrable Securities and (B) prevent the issuance of any stop order suspending the effectiveness of a registration statement, or the issuance of any order suspending or preventing the use of any related prospectus or suspending the qualification of any Common Equity included in such registration statement for sale in any jurisdiction use, and in the event any such order is issued, best efforts to obtain promptly the withdrawal of such order;

(xv) use its reasonable best efforts to cause such Registrable Securities covered by such registration statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to enable the sellers thereof to consummate the disposition of such Registrable Securities;

(xvi) cooperate with the Holders covered by the registration statement and the managing underwriter or agent, if any, to facilitate the timely preparation and delivery of certificates (not bearing any restrictive legends) representing securities to be sold under the registration statement, or the removal of any restrictive legends associated with any account at which such securities are held, and enable such securities to be in such denominations and registered in such names as the managing underwriter, or agent, if any, or such Holders may request;

(xvii) if requested by any managing underwriter, include in any prospectus or prospectus supplement updated financial or business information for the Company's most recent period or current quarterly period (including estimated results or ranges of results) if required for purposes of marketing the offering in the view of the managing underwriter;

(xviii) take no direct or indirect action prohibited by Regulation M under the Exchange Act; provided, however, that to the extent that any prohibition is applicable to the Company, the Company will take such action as is necessary to make any such prohibition inapplicable;

(xix) cooperate with each Holder covered by the registration statement and each underwriter or agent participating in the disposition of such Registrable Securities and their respective counsel in connection with the preparation and filing of applications, notices, registrations and responses to requests for additional information with FINRA, the New York Stock Exchange, Nasdaq or any other national securities exchange on which the shares of Common Equity are or are to be listed, and (B) to the extent required by the rules and regulations of FINRA, retain a Qualified Independent Underwriter acceptable to the managing underwriter;

(xx) in the case of any underwritten offering, use its best efforts to obtain, and deliver to the underwriter(s), in the manner and to the extent provided for in the applicable underwriting agreement, one or more cold comfort letters from the Company's independent public accountants in customary form and covering such matters of the type customarily covered by cold comfort letters;

(xxi) use its best efforts to provide (A) a legal opinion of the Company's outside counsel, dated the effective date of such registration statement addressed to the Company, (B) on the date that such Registrable Securities are delivered to the underwriters for sale in connection with a Demand Registration or Shelf Offering, if such securities are being sold through underwriters, or, if such securities are not being sold through underwriters, on the closing date of the applicable sale, (1) one or more legal opinions of the Company's outside counsel, dated such date, in form and substance as customarily given to underwriters in an underwritten public offering or, in the case of a non-underwritten offering, to the broker, placement agent or other agent of the Holders assisting in the sale of the Registrable Securities and (2) one or more "negative assurances letters" of the Company's outside counsel, dated such date, in form and substance as is customarily given to underwriters in an underwritten public offering or, in the case of a non-underwritten offering, to the broker, placement agent or other agent of the Holders assisting in the sale of the Registrable Securities, in each case, addressed to the underwriters, if any, or, if requested, in the case of a non-underwritten offering, to the broker, placement agent or other agent of the Holders assisting in the sale of the Registrable Securities and (3) customary certificates executed by authorized officers of the Company as may be requested by any Holder or any underwriter of such Registrable Securities;

(xxii) if the Company files an Automatic Shelf Registration Statement covering any Registrable Securities, use its best efforts to remain a WKSI (and not become an ineligible issuer (as defined in Rule 405 under the Securities Act)) during the period during which such Automatic Shelf Registration Statement is required to remain effective;

(xxiii) if the Company does not pay the filing fee covering the Registrable Securities at the time an Automatic Shelf Registration Statement is filed, pay such fee at such time or times as the Registrable Securities are to be sold;

(xxiv) if the Automatic Shelf Registration Statement has been outstanding for at least three (3) years, at the end of the third year, refile a new Automatic Shelf Registration Statement covering the Registrable Securities, and, if at any time when the Company is required to re-evaluate its WKSI status the Company determines that it is not a WKSI, use its best efforts to refile the Shelf Registration Statement on Form S-3 and, if such form is not available, Form S-1 and keep such registration statement effective during the period during which such registration statement is required to be kept effective;

(xxv) if requested by any Sponsor Investor, cooperate with such Sponsor Investor and with the managing underwriter or agent, if any, on reasonable notice to facilitate any Charitable Gifting Event and to prepare and file with the SEC such amendments and supplements to such Registration Statement and the Prospectus used in connection therewith as may be necessary to permit any such recipient Charitable Organization to sell in the underwritten offering if it so elects; and

(xxvi) use best efforts to maintain the effectiveness of a registration statement with Registrable Securities held by Bryett until such time as Bryett has sold such Registrable Securities.

(b) **Officer Obligations.** Each Holder that is an officer of the Company agrees that if and for so long as he or she is employed by the Company or any Subsidiary thereof, he or she will participate fully in the sale process in a manner customary for persons in like positions and consistent with his or her other duties with the Company, including the preparation of the registration statement and the preparation and presentation of any road shows.

(c) Automatic Shelf Registration Statements. If the Company files any Automatic Shelf Registration Statement for the benefit of the holders of any of its securities other than the Holders, and the Sponsor Investors or Other Investors do not request that their Registrable Securities be included in such Shelf Registration Statement, the Company agrees that, at the request of the Sponsor Investors or Other Investors, it will include in such Automatic Shelf Registration Statement such disclosures as may be required by Rule 430B in order to ensure that the Sponsor Investors or Other Investors may be added to such Shelf Registration Statement at a later time through the filing of a prospectus supplement rather than a post-effective amendment. If the Company has filed any Automatic Shelf Registration Statement for the benefit of the holders of any of its securities other than the Holders, the Company shall, at the request of the Sponsor Investors or Other Investors, file any post-effective amendments necessary to include therein all disclosure and language necessary to ensure that the holders of Registrable Securities may be added to such Shelf Registration Statement.

(d) Additional Information. The Company may require each seller of Registrable Securities as to which any registration is being effected to furnish the Company such information regarding such seller and the distribution of such securities as the Company may from time to time reasonably request in writing, as a condition to such seller's participation in such registration.

(e) In-Kind Distributions. If any Sponsor Investor (and/or any of their Affiliates) seeks to effectuate an in-kind distribution of all or part of their Registrable Securities to their respective direct or indirect equityholders, the Company will, subject to any applicable lock-ups, work with the foregoing Persons to facilitate such in-kind distribution in the manner reasonably requested and consistent with the Company's obligations under the Securities Act.

(f) Suspended Distributions. Each Person participating in a registration hereunder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 4(a)(vi), such Person will immediately discontinue the disposition of its Registrable Securities pursuant to the registration statement until such Person's receipt of the copies of a supplemented or amended prospectus as contemplated by Section 4(a)(vi), subject to the Company's compliance with its obligations under Section 4(a)(vi).

(g) Other. To the extent that any of the Sponsor Investors is or may be deemed to be an "underwriter" of Registrable Securities pursuant to any SEC comments or policies, the Company agrees that (i) the indemnification and contribution provisions contained in Section 6 shall be applicable to the benefit of such Sponsor Investor in their role as an underwriter or deemed underwriter in addition to their capacity as a holder and (ii) such Sponsor Investor shall be entitled to conduct the due diligence which they would normally conduct in connection with an offering of securities registered under the Securities Act, including without limitation receipt of customary opinions and comfort letters addressed to such Sponsor Investor.

Section 5 Registration Expenses.

Except as expressly provided herein, all out-of-pocket expenses incurred by the Company or any Sponsor Investor or Other Investor in connection with the performance of or compliance with this Agreement and/or in connection with any Demand Registration, Piggyback Registration or Shelf Offering, whether or not the same shall become effective, shall be paid by the Company, including, without limitation: (i) all registration and filing fees, and any other fees and expenses associated with filings required to be made with the SEC or FINRA, (ii) all fees and expenses in connection with compliance with any securities or "blue sky" laws, (iii) all printing, duplicating, word processing, messenger, telephone, facsimile and delivery expenses (including expenses of printing certificates for the Registrable Securities in a form eligible for deposit with The Depository Trust Company or other depository and of printing prospectuses and Company Free Writing Prospectuses), (iv) all fees and disbursements of counsel for the Company and of all independent certified public accountants of the Company (including the expenses of any special audit and cold comfort letters required by or incident to such performance), (v) Securities Act liability insurance or

similar insurance if the Company so desires or the underwriters so require in accordance with then- customary underwriting practice, (vi) all fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange on which similar securities of the Company are then listed (or on which exchange the Registrable Securities are proposed to be listed in the case of the initial Public Offering), (vii) all applicable rating agency fees with respect to the Registrable Securities, (viii) all fees and disbursements of legal counsel for the Company, (ix) all fees and disbursements of one legal counsel for selling Holders selected by the Sponsor Investors together with any necessary local counsel as may be required by the Sponsor Investors, (xi) any fees and disbursements of underwriters customarily paid by issuers or sellers of securities, (xii) all fees and expenses of any special experts or other Persons retained by the Company or the Sponsor Investors in connection with any Registration (xiii) all of the Company's internal expenses (including all salaries and expenses of its officers and employees performing legal or accounting duties) and (xiv) all expenses related to the "road-show" for any underwritten offering, including all travel, meals and lodging. All such expenses are referred to herein as "Registration Expenses." The Company shall not be required to pay, and each Person that sells securities pursuant to a Demand Registration, Shelf Offering or Piggyback Registration hereunder will bear and pay, all underwriting discounts and commissions applicable to the Registrable Securities sold for such Person's account and all transfer taxes (if any) attributable to the sale of Registrable Securities.

Section 6 Indemnification and Contribution.

(a) By the Company. The Company will indemnify and hold harmless, to the fullest extent permitted by law and without limitation as to time, each Holder, such Holder's officers, directors employees, agents, fiduciaries, stockholders, managers, partners, members, affiliates, direct and indirect equityholders, consultants and representatives, and any successors and assigns thereof, and each Person who controls such holder (within the meaning of the Securities Act) (the "Indemnified Parties") against all losses, claims, actions, damages, liabilities and expenses (including with respect to actions or proceedings, whether commenced or threatened, and including reasonable attorney fees and expenses) (collectively, "Losses") caused by, resulting from, arising out of, based upon or related to any of the following (each, a "Violation") by the Company: (i) any untrue or alleged untrue statement of material fact contained in (A) any registration statement, prospectus, preliminary prospectus or Free-Writing Prospectus, or any amendment thereto or supplement thereto or (B) any application or other document or communication (in this Section 6, collectively called an "application") executed by or on behalf of the Company or based upon written information furnished by or on behalf of the Company filed in any jurisdiction in order to qualify any securities covered by such registration under the "blue sky" or securities laws thereof, (ii) any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading or (iii) any violation or alleged violation by the Company of the Securities Act or any other similar federal or state securities laws or any rule or regulation promulgated thereunder applicable to the Company and relating to action or inaction required of the Company in connection with any such registration, qualification or compliance. In addition, the Company will reimburse such Indemnified Party for any legal or any other expenses reasonably incurred by them in connection with investigating or defending any such Losses. Notwithstanding the foregoing, the Company will not be liable in any such case to the extent that any such Losses result from, arise out of, are based upon, or relate to an untrue statement, or omission , made in such registration statement, any such prospectus, preliminary prospectus or Free-Writing Prospectus or any amendment or supplement thereto, or in any application, in reliance upon, and in conformity with, written information prepared and furnished in writing to the Company by such Indemnified Party expressly for use therein or by such Indemnified Party's failure to deliver a copy of the registration statement or prospectus or any amendments or supplements thereto after the Company has furnished such Indemnified Party with a sufficient number of copies of the same. In connection with an underwritten offering, the Company will indemnify such underwriters, their officers and directors, and each Person who controls such underwriters (within the meaning of the Securities Act) to the same extent as provided above with respect to the indemnification of the Indemnified Parties or as otherwise agreed to in the underwriting agreement executed in connection with such underwritten offering. Such indemnity and reimbursement of expenses shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of such securities by such seller.

(b) By Holders. In connection with any registration statement in which a Holder is participating, each such Holder will furnish to the Company in writing such information and affidavits as the Company reasonably requests for use in connection with any such registration statement or prospectus and, to the extent permitted by law, will indemnify the Company, its officers, directors, employees, agents and representatives, and each Person who controls the Company (within the meaning of the Securities Act) against any Losses resulting from (as determined by a final and appealable judgment, order or decree of a court of competent jurisdiction) any untrue statement of material fact contained in the registration statement, prospectus or preliminary prospectus or any amendment thereof or supplement thereto or any omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent that such untrue statement or omission is contained in any information or affidavit so furnished in writing by such Holder expressly for use therein; provided that the obligation to indemnify will be individual, not joint and several, for each Holder and will be limited to the net amount of proceeds received by such Holder from the sale of Registrable Securities pursuant to such registration statement.

(c) Claim Procedure. Any Person entitled to indemnification hereunder will (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification (provided that the failure to give prompt notice will impair any Person's right to indemnification hereunder only to the extent such failure has prejudiced the indemnifying party) and (ii) unless in such indemnified party's reasonable judgment a conflict of interest between such indemnified and indemnifying parties may exist with respect to such claim, permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party. If such defense is assumed, the indemnifying party will not be subject to any liability for any settlement made by the indemnified party without its consent (but such consent will not be unreasonably withheld, conditioned or delayed). An indemnifying party who is not entitled to, or elects not to, assume the defense of a claim will not be obligated to pay the fees and expenses of more than one counsel for all parties indemnified by such indemnifying party with respect to such claim, unless in the reasonable judgment of any indemnified party a conflict of interest may exist between such indemnified party and any other of such indemnified parties with respect to such claim. In such instance, the conflicted indemnified parties will have a right to retain one separate counsel, chosen by the majority of the conflicted indemnified parties involved in the indemnification and approved by the Sponsor Investor, at the expense of the indemnifying party.

(d) Contribution. If the indemnification provided for in this Section 6 is held by a court of competent jurisdiction to be unavailable to, or is insufficient to hold harmless, an indemnified party or is otherwise unenforceable with respect to any Loss referred to herein, then such indemnifying party will contribute to the amounts paid or payable by such indemnified party as a result of such Loss, (i) in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other hand in connection with the statements or omissions which resulted in such Loss as well as any other relevant equitable considerations or (ii) if the allocation provided by clause (i) of this Section 6(d) is not permitted by applicable law, then in such proportion as is appropriate to reflect not only such relative fault but also the relative benefit of the Company on the one hand and of the sellers of Registrable Securities and any other sellers participating in the registration statement on the other in connection with the statement or omissions which resulted in such Losses, as well as any other relevant equitable considerations; provided that the maximum amount of liability in respect of such contribution will be limited, in the case of each seller of Registrable Securities, to an amount equal to the net proceeds actually received by such seller from the sale of Registrable Securities effected pursuant to such registration. The relative fault of the indemnifying party and of the indemnified party will be determined by reference to, among other things, whether the untrue (or, as applicable alleged) untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The parties hereto agree that it would not be just or equitable if the contribution pursuant to this Section 6(d) were to be determined by pro rata allocation or by any other method of allocation that does not take into account such equitable considerations. The amount paid or payable by an indemnified party as a result of the Losses referred to herein will be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending against any action or claim which is the subject hereof. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who is not guilty of such fraudulent misrepresentation.

(e) Release. No indemnifying party will, except with the consent of the indemnified party, consent to the entry of any judgment or enter into any settlement that does not include as an unconditional term thereof giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect to such claim or litigation.

(f) Non-exclusive Remedy; Survival. The indemnification and contribution provided for under this Agreement will be in addition to any other rights to indemnification or contribution that any indemnified party may have pursuant to law or contract (and the Company and its Subsidiaries shall be considered the indemnitees of first resort in all such circumstances to which this Section 6 applies) and will remain in full force and effect regardless of any investigation made by or on behalf of the indemnified party or any officer, director or controlling Person of such indemnified party and will survive the transfer of Registrable Securities and the termination or expiration of this Agreement.

Section 7 Cooperation with Underwritten Offerings. No Person may participate in any underwritten registration hereunder unless such Person (i) agrees to sell such Person's securities on the basis provided in any underwriting arrangements approved by the Person or Persons entitled hereunder to approve such arrangements (including, without limitation, pursuant to the terms of any over-allotment or "green shoe" option requested by the underwriters; provided that no Holder will be required to sell more than the number of Registrable Securities such Holder has requested to include in such registration) and (ii) completes, executes and delivers all questionnaires, powers of attorney, stock powers, custody agreements, indemnities, underwriting agreements and other documents and agreements required under the terms of such underwriting arrangements or as may be reasonably requested by the Company and the lead managing underwriter(s). To the extent that any such agreement is entered into pursuant to, and consistent with, Section 3, Section 4 and/or this Section 7, the respective rights and obligations created under such agreement will supersede the respective rights and obligations of the Holders, the Company and the underwriters created thereby with respect to such registration.

Section 8 Subsidiary Public Offering.

(a) Subsidiary Public Offering. If, after an initial Public Offering of the common equity securities of one of its Subsidiaries, the Company distributes securities of such Subsidiary to its equityholders, then the rights and obligations of the Company pursuant to this Agreement will apply, *mutatis mutandis*, to such Subsidiary, and the Company will cause such Subsidiary to comply with such Subsidiary's obligations under this Agreement as if it were the Company hereunder.

Section 9 Joinder; Additional Parties; Transfer of Registrable Securities.

(a) Joinder. The Company may from time to time (with the prior written consent of the Sponsor Investors) permit any Person who acquires Common Equity (or rights to acquire Common Equity) to become a party to this Agreement and to be entitled to and be bound by all of the rights and obligations as a Holder by obtaining an executed joinder to this Agreement from such Person in the form of Exhibit B attached hereto (a "Joinder"). Upon the execution and delivery of a Joinder by such Person, the Common Equity held by such Person shall become the category of Registrable Securities (i.e. Sponsor Investor, Executive or Other Investor Registrable Securities), and such Person shall be deemed the category of Holder (i.e. Sponsor Investor, Executive or Other Investor), in each case as set forth on the signature page to such Joinder.

(b) Legend. Each certificate (if any) evidencing any Registrable Securities and each certificate issued in exchange for or upon the transfer of any Registrable Securities (unless such Registrable Securities would no longer be Registrable Securities after such transfer) will be stamped or otherwise imprinted with a legend in substantially the following form:

“THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER AND OTHER PROVISIONS SET FORTH IN A REGISTRATION RIGHTS AGREEMENT DATED AS OF SEPTEMBER 21, 2021 AMONG THE ISSUER OF SUCH SECURITIES (THE “COMPANY”) AND CERTAIN OF THE COMPANY’S EQUITYHOLDERS, AS AMENDED. A COPY OF SUCH AGREEMENT WILL BE FURNISHED WITHOUT CHARGE BY THE COMPANY TO THE HOLDER HEREOF UPON WRITTEN REQUEST.”

The Company will imprint such legend on certificates evidencing Registrable Securities outstanding prior to the date hereof. The legend set forth above will be removed from the certificates evidencing any securities that have ceased to be Registrable Securities.

Section 10 General Provisions.

(a) Amendments and Waivers. Except as otherwise provided herein, the provisions of this Agreement may be amended, modified or waived only with the prior written consent of the Company and the Sponsor Investors; provided that no such amendment, modification or waiver that would treat a specific Holder or group of Holders of Registrable Securities (i.e., Executives or Other Investors) in a manner materially and adversely different than any other Holder or group of Holders will be effective against such Holder or group of Holders without the consent of the holders of a majority of the Registrable Securities that are held by the group of Holders that is materially and adversely affected thereby. The failure or delay of any Person to enforce any of the provisions of this Agreement will in no way be construed as a waiver of such provisions and will not affect the right of such Person thereafter to enforce each and every provision of this Agreement in accordance with its terms. A waiver or consent to or of any breach or default by any Person in the performance by that Person of his, her or its obligations under this Agreement will not be deemed to be a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person under this Agreement.

(b) Remedies. The parties to this Agreement will be entitled to enforce their rights under this Agreement specifically (without posting a bond or other security), to recover damages caused by reason of any breach of any provision of this Agreement and to exercise all other rights existing in their favor. The parties hereto agree and acknowledge that a breach of this Agreement would cause irreparable harm and money damages would not be an adequate remedy for any such breach and that, in addition to any other rights and remedies existing hereunder, any party will be entitled to specific performance and/or other injunctive relief from any court of law or equity of competent jurisdiction (without posting any bond or other security) in order to enforce or prevent violation of the provisions of this Agreement.

(c) Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited, invalid, illegal or unenforceable in any respect under any applicable law or regulation in any jurisdiction, such prohibition, invalidity, illegality or unenforceability will not affect the validity, legality or enforceability of any other provision of this Agreement in such jurisdiction or in any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such prohibited, invalid, illegal or unenforceable provision had never been contained herein.

(d) Entire Agreement. Except as otherwise provided herein, this Agreement contains the complete agreement and understanding among the parties hereto with respect to the subject matter hereof and supersedes and preempts any prior understandings, agreements or representations by or among the parties hereto, written or oral, which may have related to the subject matter hereof in any way.

(e) Successors and Assigns. Except as otherwise provided herein, this Agreement will bind and inure to the benefit and be enforceable by the Company and its successors and permitted assigns and the Holders and their respective successors and permitted assigns (whether so expressed or not).

(f) Notices. Any notice, demand or other communication to be given under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given (i) when delivered personally to the recipient, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; but if not, then on the next Business Day, (iii) one Business Day after it is sent to the recipient by reputable overnight courier service (charges prepaid) or (iv) three Business Days after it is mailed to the recipient by first class mail, return receipt requested. Such notices, demands and other communications will be sent to the Company at the address specified on the signature page hereto or any Joinder and to any holder, or at such address or to the attention of such other Person as the recipient party has specified by prior written notice to the sending party. Any party may change such party's address for receipt of notice by giving prior written notice of the change to the sending party as provided herein.

The Company's address is:

a.k.a. Brands Holding Corp.
100 Montgomery Street, Suite 1600
San Francisco, California 94104
Attention: Jill Ramsey
Email: [*****]

With a copy to:

Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, IL 60654
Attention: James Rowe
Michael P. Keeley
Email: james.rowe@kirkland.com; michael.keeley@kirkland.com

or to such other address or to the attention of such other person as the recipient party has specified by prior written notice to the sending party.

(g) Business Days. If any time period for giving notice or taking action hereunder expires on a day that is not a Business Day, the time period will automatically be extended to the Business Day immediately following such Saturday, Sunday or legal holiday.

(h) Governing Law. The corporate law of the State of Delaware will govern all issues and questions concerning the relative rights of the Company and its equityholders. All other issues and questions concerning the construction, validity, interpretation and enforcement of this Agreement and the exhibits and schedules hereto will be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. In furtherance of the foregoing, the internal law of the State of Delaware will control the interpretation and construction of this Agreement (and all schedules and exhibits hereto), even though under that jurisdiction's choice of law or conflict of law analysis, the substantive law of some other jurisdiction would ordinarily apply.

(i) MUTUAL WAIVER OF JURY TRIAL. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.

(j) CONSENT TO JURISDICTION AND SERVICE OF PROCESS. EACH OF THE PARTIES IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE, FOR THE PURPOSES OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF THIS AGREEMENT, ANY RELATED AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY OR THEREBY. EACH OF THE PARTIES HERETO FURTHER AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT BY U.S. REGISTERED MAIL TO SUCH PARTY'S RESPECTIVE ADDRESS SET FORTH ABOVE WILL BE EFFECTIVE SERVICE OF PROCESS FOR ANY ACTION, SUIT OR PROCEEDING WITH RESPECT TO ANY MATTERS TO WHICH IT HAS SUBMITTED TO JURISDICTION IN THIS PARAGRAPH. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY OBJECTION TO THE LAYING OF VENUE OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF THIS AGREEMENT, ANY RELATED DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE, AND HEREBY AND THEREBY FURTHER IRREVOCABLY AND UNCONDITIONALLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION, SUIT OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(k) No Recourse. Notwithstanding anything to the contrary in this Agreement, the Company and each Holder agrees and acknowledges that no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement, will be had against any current or future director, officer, employee, general or limited partner or member of any Holder or any Affiliate or assignee thereof, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any statute, regulation or other applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever will attach to, be imposed on or otherwise be incurred by any current or future officer, agent or employee of any Holder or any current or future member of any Holder or any current or future director, officer, employee, partner or member of any Holder or of any Affiliate or assignee thereof, as such for any obligation of any Holder under this Agreement or any documents or instruments delivered in connection with this Agreement for any claim based on, in respect of or by reason of such obligations or their creation.

(l) Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement. The use of the word "including" in this Agreement will be by way of example rather than by limitation.

(m) No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against any party.

(n) Counterparts. This Agreement may be executed in multiple counterparts, any one of which need not contain the signature of more than one party, but all such counterparts taken together will constitute one and the same agreement.

(o) Electronic Delivery. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent executed and delivered by means of a photographic, photostatic, facsimile or similar reproduction of such signed writing using a facsimile machine or electronic mail will be treated in all manner and respects as an original agreement or instrument and will be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto will re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument will raise the use of a facsimile machine or electronic mail to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or electronic mail as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

(p) Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Holder agrees to execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and the transactions contemplated hereby.

(q) **Dividends, Recapitalizations, Etc.** If at any time or from time to time there is any change in the capital structure of the Company by way of a stock split, stock dividend, combination or reclassification, or through a merger, consolidation, reorganization or recapitalization, or by any other means, appropriate adjustment will be made in the provisions hereof so that the rights and privileges granted hereby will continue.

(r) **No Third-Party Beneficiaries**. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any Person not a party hereto, and no such other Person shall have any right or cause of action hereunder, except as otherwise expressly provided herein.

(s) **Current Public Information**. At all times after the Company has filed a registration statement with the SEC pursuant to the requirements of either the Securities Act or the Exchange Act, the Company will file all reports required to be filed by it under the Securities Act and the Exchange Act and will take such further action as the Sponsor Investors may reasonably request, all to the extent required to enable such Holders to sell Registrable Securities pursuant to Rule 144.

IN WITNESS WHEREOF, the parties have executed this Registration Rights Agreement as of the date first written above.

A.K.A. BRANDS HOLDING CORP.

By: /s/ Jill Ramsey

Name: Jill Ramsey

Its: Chief Executive Officer and Director

[Signature Page to Registration Rights Agreement]

SPONSOR INVESTORS:

NEW EXCELERATE, L P.

By: /s/ Matthew Hamilton

Name: Matthew Hamilton

Its: Manager

OTHER INVESTORS:

THE TF APPAREL DISCRETIONARY TRUST

By: Beard Trading Pty Ltd.

Its: Trustee

By: /s/ Tah-Nee Beard

Name: Tah-Nee Beard

Title: Director

THE SIMON BEARD FAMILY TRUST

By: Beard Trading Pty Ltd.

Its: Trustee

By: /s/ Tah-Nee Beard

Name: Tah-Nee Beard

Title: Director

THE TAH NEE ALEMAN FAMILY TRUST

By: /s/ Tah-Nee Beard

Name: Tah-Nee Beard

Title: Director

BEARD TRADING PTY LTD.

By: /s/ Tah-Nee Beard

Name: Tah-Nee Beard

Title: Director

[Signature Page to Registration Rights Agreement]

THE BRYETT ENTERPRISES TRUST

**By: Bryett Enterprises Pty Ltd ACN 169 041 294 as
trustee**

By: /s/ Wesley Alexander Bryett

Name: Wesley Alexander Bryett

Its: Director

[Signature Page to Registration Rights Agreement]

DEFINITIONS

“Affiliate” of any Person means any other Person controlled by, controlling or under common control with such Person and, in the case of an individual, also includes any member of such individual’s Family Group; provided that the Company and its Subsidiaries will not be deemed to be Affiliates of any holder of Registrable Securities. As used in this definition, “control” (including, with its correlative meanings, “controlling,” “controlled by” and “under common control with”) will mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities, by contract or otherwise).

“Agreement” has the meaning set forth in the recitals.

“Automatic Shelf Registration Statement” has the meaning set forth in Section 1(a).

“Bryett” shall mean Bryett Enterprises Pty Lts ACN 169 041 294 and its affiliates.

“Business Day” means a day that is not a Saturday or Sunday or a day on which banks in New York City are authorized or requested by law to close.

“Charitable Gifting Event” means any transfer by an Sponsor Investor, or any subsequent transfer by such holder’s members, partners or other employees, in connection with a bona fide gift to any Charitable Organization on the date of, but prior to, the execution of the underwriting agreement entered into in connection with any underwritten offering.

“Charitable Organization” means a charitable organization as described by Section 501(c)(3) of the Internal Revenue Code of 1986, as in effect from time to time.

“Common Equity” means the Company’s common stock, par value \$0,001 per share.

“Company” has the meaning set forth in the preamble and shall include its successor(s).

“Demand Registrations” has the meaning set forth in Section 1(a).

“End of Suspension Notice” has the meaning set forth in Section 1(f)(ii).

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time, or any successor federal law then in force, together with all rules and regulations promulgated thereunder.

“Excluded Registration” means any registration (i) pursuant to a Demand Registration (which is addressed in Section 1(a)), or (ii) in connection with registrations on Form S-4 or S-8 promulgated by the SEC or any successor or similar forms.

“Executives” has the meaning set forth in the recitals.

“Executive Registrable Securities” means any Common Equity held by the management employees of the Company who are listed as “Executives” on the signature page hereto or to a Joinder.

“Family Group” means with respect to any individual, such individual’s current or former spouse, their respective parents, descendants of such parents (whether natural or adopted) and the spouses of such descendants, any trust, limited partnership, corporation or limited liability company established solely for the benefit of such individual or such individual’s current or former spouse, their respective parents, descendants of such parents (whether natural or adopted) or the spouses of such descendants.

“FINRA” means the Financial Industry Regulatory Authority.

“Free Writing Prospectus” means a free-writing prospectus, as defined in Rule 405.

“Holdback Period” has the meaning set forth in Section 3(a).

“Holder” means a holder of Registrable Securities who is a party to this Agreement (including by way of Joinder).

“Indemnified Parties” has the meaning set forth in Section 6(a).

“Joinder” has the meaning set forth in Section 9(a).

“Long-Form Registrations” has the meaning set forth in Section 1(a).

“Losses” has the meaning set forth in Section 6(c).

“Other Investors” has the meaning set forth in the recitals.

“Other Registrable Securities” means (i) any Common Equity held (directly or indirectly) by any Other Investors or any of their Affiliates, and (ii) any equity securities of the Company or any Subsidiary issued or issuable with respect to the securities referred to in clause (i) above by way of dividend, distribution, split or combination of securities, or any recapitalization, merger, consolidation or other reorganization.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

“Piggyback Registrations” has the meaning set forth in Section 2(a).

“Public Offering” means any sale or distribution by the Company, one of its Subsidiaries and/or Holders to the public of Common Equity or other securities convertible into or exchangeable for Common Equity pursuant to an offering registered under the Securities Act.

“Registrable Securities” means Sponsor Investor Registrable Securities and Executive Registrable Securities and Other Registrable Securities. As to any particular Registrable Securities, such securities will cease to be Registrable Securities when they have been (a) sold or distributed pursuant to a Public Offering, (b) sold in compliance with Rule 144 following the consummation of the initial Public Offering, or (c) repurchased by the Company or a Subsidiary of the Company. For purposes of this Agreement, a Person will be deemed to be a holder of Registrable Securities, and the Registrable Securities will be deemed to be in existence, whenever such Person has the right to acquire, directly or indirectly, such Registrable Securities (upon conversion or exercise in connection with a transfer of securities or otherwise, but disregarding any restrictions or limitations upon the exercise of such right), whether or not such acquisition has actually been effected, and such Person will be entitled to exercise the rights of a holder of Registrable Securities hereunder (it being understood that a holder of Registrable Securities may only request that Registrable Securities in the form of Common Equity be registered pursuant to this Agreement). Notwithstanding the foregoing, following the consummation of an initial Public Offering, any Registrable Securities held by any Person (other than any Sponsor Investor or its Affiliates) that may be sold under Rule 144(b)(1)(i) without limitation under any of the other requirements of Rule 144 will be deemed not to be Registrable Securities.

“Registration Expenses” has the meaning set forth in Section 5.

“Rule 144”. “Rule 158”. “Rule 405”. “Rule 415”. “Rule 403B” and “Rule 462” mean, in each case, such rule promulgated under the Securities Act (or any successor provision) by the SEC, as the same will be amended from time to time, or any successor rule then in force.

“Sale of the Company” means any transaction or series of transactions pursuant to which any Person(s) or a group of related Persons (other than any Sponsor Investor and/or its Affiliates) in the aggregate acquires: (i) Common Equity of the Company entitled to vote (other than voting rights accruing only in the event of a default, breach, event of noncompliance or other contingency) to elect directors with a majority of the voting power of the Company’s board of directors (whether by merger, consolidation, reorganization, combination, sale or transfer of the Company’s Common Equity) or (ii) all or substantially all of the Company’s and its Subsidiaries’ assets determined on a consolidated basis; provided that a Public Offering will not constitute a Sale of the Company.

“Sale Transaction” has the meaning set forth in Section 3(a).

“SEC” means the United States Securities and Exchange Commission.

“Securities” has the meaning set forth in Section 3(a).

“Securities Act” means the Securities Act of 1933, as amended from time to time, or any successor federal law then in force, together with all rules and regulations promulgated thereunder.

“Shelf Offering” has the meaning set forth in Section 1(d)(i).

“Shelf Offering Notice” has the meaning set forth in Section 1(d)(i).

“Shelf Registration” has the meaning set forth in Section 1(a).

“Shelf Registrable Securities” has the meaning set forth in Section 1(d)(i).

“Shelf Registration Statement” has the meaning set forth in Section 1(d).

“Short-Form Registrations” has the meaning set forth in Section 1(a).

“Sponsor Investors” has the meaning set forth in the recitals; provided that any decision to be made under this Agreement by the Sponsor Investors shall be made by the holders of a majority of all Sponsor Investor Registrable Securities

“Sponsor Investor Registrable Securities” means (i) any Common Equity held (directly or indirectly) by any Sponsor Investor or any of its Affiliates, and (ii) any equity securities of the Company or any Subsidiary issued or issuable with respect to the securities referred to in clause (i) above by way of dividend, distribution, split or combination of securities, or any recapitalization, merger, consolidation or other reorganization.

“Subsidiary” means, with respect to the Company, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by the Company or one or more of the other Subsidiaries of the Company or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the limited liability company, partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by the Company or one or more Subsidiaries of the Company or a combination thereof. For purposes hereof, a Person or Persons will be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons will be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or will be or control the managing director or general partner of such limited liability company, partnership, association or other business entity.

“Suspension Event” has the meaning set forth inSection 1(f)(ii).

“Suspension Notice” has the meaning set forth inSection 1(f)(ii).

“Suspension Period” has the meaning set forth inSection 1(f)(i).

“Violation” has the meaning set forth inSection 6(a).

“Wksi” means a “well-known seasoned issuer” as defined under Rule 405.

DIRECTOR NOMINATION AGREEMENT

THIS DIRECTOR NOMINATION AGREEMENT (this “Agreement”) is made and entered into as of September 24, 2021, by and among a.k.a. Brands Holding Corp., a Delaware corporation (the “Company”), New Excelerate, L.P., Summit Partners, L.P., Summit Partners GE IX AIV, Ltd., Summit Partners GE IX AIV, L.P., Summit Partners Growth Equity Fund IX- B AIV, L.P., Summit Partners GE IX, LLC, Summit Partners GE IX, L.P., Summit Partners Growth Equity Fund IX-A AIV, L.P., and Excelerate GP, Ltd, (collectively, “Summit”). This Agreement shall be effective from the date hereof (the “Effective Date”).

WHEREAS, as of the date hereof, Summit beneficially owns a majority of the outstanding shares of capital stock of the Company, representing a majority in voting power of all outstanding shares of capital stock of the Company;

WHEREAS, Summit is contemplating causing the Company to effect an initial public offering (the ‘IPO’);

WHEREAS, Summit currently has the authority to elect all directors of the Company;

WHEREAS, in consideration of Summit agreeing to undertake the IPO, the Company has agreed to permit Summit to designate persons for nomination for election to the board of directors of the Company (the “Board”) following the Effective Date on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each of the parties to this Agreement agrees as follows:

1. Board Nomination Rights.

(a) From the Effective Date, Summit shall have the right, but not the obligation, to nominate to the Board a number of designees equal to at least: (i) 100% of the Total Number of Directors (as defined below), so long as Summit Beneficially Owns shares of common stock, par value \$0,001 per share (the “Common Stock”) representing at least 40% of the Original Amount, (ii) a majority of the Total Number of Directors, in the event that Summit Beneficially Owns shares of Common Stock representing at least 30% but less than 40% of the Original Amount, (iii) 30% of the Total Number of Directors, in the event that Summit Beneficially Owns shares of Common Stock representing at least 20% but less than 30% of the Original Amount, (iv) 20% of the Total Number of Directors, in the event that Summit Beneficially Owns shares of Common Stock representing at least 10% but less than 20% of the Original Amount and (v) one Director, in the event that Summit Beneficially Owns shares of Common Stock representing at least 5% of the Original Amount (such persons, the “Nominees”). For purposes of calculating the number of directors that Summit is entitled to designate pursuant to the immediately preceding sentence, any fractional amounts shall automatically be rounded up to the nearest whole number (e.g., $\frac{1}{4}$ Directors shall equate to 2 Directors) and any such calculations shall be made after taking into account any increase in the Total Number of Directors.

(b) In the event that Summit has nominated less than the total number of designees Summit shall be entitled to nominate pursuant to Section 1(a), Summit shall have the right, at any time, to nominate such additional designees to which it is entitled, in which case, the Company and the Directors shall take all necessary corporation action (including increasing the size of the Board to create a vacancy), to the fullest extent permitted by applicable law (including with respect to fiduciary duties under Delaware law), to (x) enable Summit to nominate and effect the election or appointment of such additional individuals, whether by increasing the size of the Board, or otherwise and (y) to designate such additional individuals nominated by Summit to fill such newly created vacancies or to fill any other existing vacancies.

(c) In addition to the nomination rights set forth in Section 1(a) above, from the Effective Date, for so long as Summit Beneficially Owns shares of Common Stock representing at least 5% of the Original Amount, Summit shall have the right, but not the obligation, to designate a person (a “Non-Voting Observer”) to attend meetings of the Board (including any meetings of any committees thereof) in a non-voting observer capacity. Any such Non-Voting Observer shall be permitted to attend all meetings of the Board. Summit shall have the right to remove and replace its Non-Voting Observer at any time and from time to time. The Company shall furnish to any Non-Voting Observer (i) notices of Board meetings no later than, and using the same form of communication as, notice of Board meetings are furnished to directors and (ii) copies of any materials prepared for meetings of the Board that are furnished to the directors no later than the time such materials are furnished to the directors; provided that failure to deliver notice, or materials, to such Non-Voting Observer in connection with such Non-Voting Observer’s right to attend and/or review materials with respect to, any meeting of the Board shall not, by itself, impair the validity of any action taken by such Board at such meeting. Such Non-Voting Observer shall be required to execute or otherwise become subject to any codes of conduct or confidentiality agreements of the Company generally applicable to directors of the Company or as the Company reasonably requests. Notwithstanding the foregoing, the Company reserves the right to withhold any information and to exclude the Non-Voting Observer from receiving any materials and/or attending any meeting or portion thereof if access to such information or attendance at such meeting could adversely affect the attorney-client privilege between the Company and its counsel.

(d) The Company shall pay all reasonable out-of-pocket expenses incurred by the Nominees and the Non-Voting Observer in connection with the performance of his or her duties as a director or a Non-Voting Observer and in connection with his or her attendance at any meeting of the Board.

(e) “Affiliate” of any person shall mean any other person controlled by, controlling or under common control with such person; where “control” (including, with its correlative meanings, “controlling,” “controlled by” and “under common control with”) means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities, by contract or otherwise).

(f) “Beneficially Own” shall mean that a specified person has or shares the right, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, to vote shares of capital stock of the Company.

(g) “Director” means any member of the Board.

(h) “Original Amount” means the aggregate number of shares of Common Stock outstanding upon completion of the IPO, as such number may be adjusted from time to time for any reorganization, recapitalization, stock dividend, stock split, reverse stock split or other similar changes in the Company’s capitalization.

(i) “Total Number of Directors” means the total number of Directors comprising the Board.

(j) No reduction in the number of shares of Common Stock that Summit Beneficially Owns shall shorten the term of any incumbent director. At the Effective Date, the Board shall be comprised of six members including Jill Ramsey, Wesley Bryett, Christopher Dean, Matthew Hamilton, Myles McCormick and Kelly Thompson as the director nominees to be approved as of the Effective Date.

(k) In the event that any Nominee shall cease to serve for any reason, Summit shall be entitled to designate such person’s successor in accordance with this Agreement (regardless of Summit’s beneficial ownership in the Company at the time of such vacancy) and the Board shall promptly fill the vacancy with such successor nominee; it being understood that any such designee shall serve the remainder of the term of the director whom such designee replaces.

(l) If a Nominee is not appointed or elected to the Board because of such person’s death, disability, disqualification, withdrawal as a nominee or for other reason is unavailable or unable to serve on the Board, Summit shall be entitled to designate promptly another nominee and the director position for which the original Nominee was nominated shall not be filled pending such designation.

(m) So long as Summit has the right to nominate Nominees under Section 1(a) or any such Nominee is serving on the Board, the Company shall use its reasonable best efforts to maintain in effect at all times directors and officers indemnity insurance coverage reasonably satisfactory to Summit, and the Company’s Certificate of Incorporation and Bylaws (each as may be further amended, supplemented or waived in accordance with its terms) shall at all times provide for indemnification, exculpation and advancement of expenses to the fullest extent permitted under applicable law.

(n) If the size of the Board is expanded, Summit shall be entitled to nominate a number of Nominees to fill the newly created vacancies such that the total number of Nominees serving on the Board following such expansion will be equal to that number of Nominees that Summit would be entitled to nominate in accordance with Section 1(a) if such expansion occurred immediately prior to any meeting of the stockholders of the Company called with respect to the election of members of the Board, and the Board shall appoint such Nominees to the Board.

(o) At any time the Company is not a “controlled company” and is required by applicable law or the New York Stock Exchange (the ‘Exchange’) listing standards to have a majority of the Board comprised of “independent directors” (subject in each case to any applicable phase-in periods), Summit’s Nominees shall include a number of persons that qualify as “independent directors” under applicable law and the Exchange listing standards such that, together with any other “independent directors” then serving on the Board that are not Nominees, the Board is comprised of a majority of “independent directors.”

(p) At any time that Summit shall have any nomination rights under Section 1, the Company shall not take any action, including making or recommending any amendment to the Certificate of Incorporation or the Company’s Bylaws that could reasonably be expected to adversely affect Summit’s rights under this Agreement, in each case without the prior written consent of Summit.

(q) The Company recognizes that each Nominee (i) will from time to time receive nonpublic information concerning the Company, and (ii) may share such information with other individuals associated with Summit that designated such Nominee. The Company hereby irrevocably consents to such sharing.

Summit agrees that it will keep confidential and not disclose or divulge to any third party any confidential information regarding the Company it receives from the Company or a Nominee, unless such information (x) is available or becomes available to the public in general, (y) is or has been independently developed or conceived by Summit without use of the Company's confidential information or (z) is or has been made known or disclosed to Summit by a third party without a breach of any obligation of confidentiality such third party may have to the Company; provided, however, that Summit may disclose confidential information (I) to its Affiliates (other than portfolio companies), (II) to each of its and its Affiliate's (other than portfolio companies) attorneys, accountants, consultants, advisors and other professionals to the extent necessary to obtain their services in connection with evaluating the information, or (III) as may be required by law or legal, judicial or regulatory process or requested by any regulatory or self-regulatory authority or examiner, provided that Summit takes reasonable steps to minimize the extent of any required disclosure described in this clause (III).

2. Company Obligations. The Company agrees to use its reasonable best efforts to ensure that prior to the date that Summit and its Affiliates cease to Beneficially Own shares of Common Stock representing at least 5% of the total voting power of the then outstanding Common Stock, (i) each Nominee is included in the Board's slate of nominees to the stockholders (the "Board's Slate") for each election of directors; and (ii) each Nominee is included in the proxy statement prepared by management of the Company in connection with soliciting proxies for every meeting of the stockholders of the Company called with respect to the election of members of the Board (each, a "Director Election Proxy Statement"), and at every adjournment or postponement thereof, and on every action or approval by written consent of the stockholders of the Company or the Board with respect to the election of members of the Board. Summit will promptly provide reporting to the Company after Summit ceases to Beneficially Own shares of Common Stock representing at least 5% of the total voting power of the then outstanding Common Stock, such that Company is informed of when this obligation terminates. The calculation of the number of Nominees that Summit is entitled to nominate to the Board's Slate for any election of directors shall be based on the percentage of the total voting power of the then outstanding Common Stock then Beneficially Owned by Summit ("Summit Voting Control") immediately prior to the mailing to shareholders of the Director Election Proxy Statement relating to such election (or, if earlier, the filing of the definitive Director Election Proxy Statement with the U.S. Securities and Exchange Commission). Unless Summit notifies the Company otherwise prior to the mailing to shareholders of the Director Election Proxy Statement relating to an election of directors (or, if earlier, the filing of the definitive Director Election Proxy Statement with the U.S. Securities and Exchange Commission), the Nominees for such election shall be presumed to be the same Nominees currently serving on the Board, and no further action shall be required of Summit for the Board to include such Nominees on the Board's Slate; provided, that, in the event Summit is no longer entitled to nominate the full number of Nominees then serving on the Board, Summit shall provide advance written notice to the Company of which currently servicing Nominee(s) shall be excluded from the Board Slate, and of any other changes to the list of Nominees. If Summit fails to provide such notice prior to the mailing to shareholders of the Director Election Proxy Statement relating to such election (or, if earlier, the filing of the definitive Director Election Proxy Statement with the U.S. Securities and Exchange Commission), a majority of the independent directors then serving on the Board shall determine which of the Nominees of Summit then serving on the Board will be included in the Board's Slate. Furthermore, the Company agrees for so long as the Company qualifies as a "controlled company" under the rules of the Exchange the Company will elect to be a "controlled company" for purposes of the Exchange and will disclose in its annual meeting proxy statement that it is a "controlled company" and the basis for that determination. The Company and Summit acknowledge and agree that, as of the Effective Date, the Company is a "controlled company." The Company agrees to provide written notice of the preparation of a Director Election Proxy Statement to the Lead Sponsors at least 20 business days, but no more than 40 business days, prior to the earlier of the mailing and the filing date of any Director Election Proxy Statement.

3. Committees. From and after the Effective Date hereof until such time as Summit and its Affiliates cease to Beneficially Own shares of Common Stock representing at least 5% of the total voting power of the then outstanding Common Stock, Summit shall have the right to designate a number of members of each committee of the Board equal to the nearest whole number greater than the product obtained by multiplying (a) the percentage of the total voting power of the then outstanding Common Stock then Beneficially Owned by Summit and (b) the number of positions, including any vacancies, on the applicable committee, provided that any such designee shall be a director and shall be eligible to serve on the applicable committee under applicable law or listing standards of the Exchange, including any applicable independence requirements (subject in each case to any applicable exceptions, including those for newly public companies and for “controlled companies,” and any applicable phase-in periods). Any additional members shall be determined by the Board. Nominees designated to serve on a Board committee shall have the right to remain on such committee until the next election of directors, regardless of the level of Summit Voting Control following such designation. Unless Summit notifies the Company otherwise prior to the time the Board takes action to change the composition of a Board committee, and to the extent Summit has the requisite Summit Voting Control for Summit to nominate a Board committee member at the time the Board takes action to change the composition of any such Board committee, any Nominee currently designated by Summit to serve on a committee shall be presumed to be re-designated for such committee.

4. Amendment and Waiver. Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by the Company and Summit, or in the case of a waiver, by the party against whom the waiver is to be effective. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law. Summit shall not be obligated to nominate all (or any) of the Nominees it is entitled to nominate pursuant to this Agreement for any election of directors but the failure to do so shall not constitute a waiver of its rights hereunder with respect to future elections; provided, however, that in the event Summit fails to nominate all (or any) of the Nominees it is entitled to nominate pursuant to this Agreement prior to the mailing to shareholders of the Director Election Proxy Statement relating to such election (or, if earlier, the filing of the definitive Director Election Proxy Statement with the U.S. Securities and Exchange Commission), the Compensation and Nominating Committee of the Board shall be entitled to nominate individuals in lieu of such Nominees for inclusion in the Board’s Slate and the applicable Director Election Proxy Statement with respect to the election for which such failure occurred and Summit shall be deemed to have waived its rights hereunder with respect to such election. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

5. Benefit of Parties. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective permitted successors and assigns. Notwithstanding the foregoing, the Company may not assign any of its rights or obligations hereunder without the prior written consent of Summit. Except as otherwise expressly provided in Section 6, nothing herein contained shall confer or is intended to confer on any third party or entity that is not a party to this Agreement any rights under this Agreement.

6. Assignment. Upon written notice to the Company, Summit may assign to any Affiliate of Summit (other than a portfolio company) all of its rights hereunder and, following such assignment, such assignee shall be deemed to be "Summit" for all purposes hereunder.

7. Indemnification.

(a) The Company shall, to the fullest extent permitted by law, defend, indemnify and hold harmless Summit, its Affiliates, partners, employees, agents, directors, managers, officers and controlling Persons (collectively, the "Indemnified Parties") from and against any and all actions, causes of action, suits, claims, liabilities, losses, damages, costs, expenses, or obligations of any kind or nature (whether accrued or fixed, absolute or contingent) in connection therewith (including reasonable attorneys' fees and expenses) incurred by the Indemnified Parties before or after the date of this Agreement (each, an "Action") arising directly or indirectly out of, or in any way relating to, (i) Summit's or its Affiliates' Beneficial Ownership of Common Stock or other equity securities of the Company or control or ability to influence the Company or any of its subsidiaries (other than any such Actions (x) to the extent such Actions arise out of any breach of this Agreement by an Indemnified Party or its Affiliates or the breach of any fiduciary or other duty or obligation of such Indemnified Party to its direct or indirect equity holders, creditors or Affiliates or (y) to the extent such Actions are directly caused by such Person's willful misconduct), (ii) the business, operations, properties, assets or other rights or liabilities of the Company or any of its subsidiaries or (iii) any services provided prior, on or after the date of this Agreement by Summit or its Affiliates to the Company or any of its subsidiaries. The Company shall, to the fullest extent permitted by law, defend at its own cost and expense in respect of any Action which may be brought against the Company and/or its Affiliates and the Indemnified Parties. The Company shall, to the fullest extent permitted by law, defend at its own cost and expense any and all Actions which may be brought in which the Indemnified Parties may be impleaded with others upon any Action by the Indemnified Parties, except that if such damage shall be proven to be the direct result of gross negligence, bad faith or willful misconduct by any of the Indemnified Parties, then such Indemnified Party shall reimburse the Company for the costs of defense and other costs incurred by the Company in proportion to such Indemnified Party's culpability as proven. In the event of the assertion against any Indemnified Party of any Action or the commencement of any Action, the Company shall be entitled to participate in such Action and in the investigation of such Action and, after written notice from the Company to such Indemnified Party, to assume the investigation or defense of such Action with counsel of the Company's choice at the Company's expense; provided, however, that such counsel shall be reasonably satisfactory to the Indemnified Party. Notwithstanding anything to the contrary contained herein, the Company may retain one firm of counsel to represent all Indemnified Parties in such Action; provided, however, that the Indemnified Party shall have the right to employ a single firm of separate counsel (and any necessary local counsel) and to participate in the defense or investigation of such Action and the Company shall bear the expense of such separate counsel (and local counsel, if applicable), if (x) in the opinion of counsel to the Indemnified Party use of counsel of the Company's choice could reasonably be expected to give rise to a conflict of interest, (y) the Company shall not have employed counsel satisfactory to the Indemnified Party to represent the Indemnified Party within a reasonable time after notice of the assertion of any such Action or (z) the Company shall authorize the Indemnified Party to employ separate counsel at the Company's expense. The Company further agrees that with respect to any Indemnified Party who is employed, retained or otherwise associated with, or appointed or nominated by, Summit or any of its Affiliates and who acts or serves as a director, officer, manager, fiduciary, employee, consultant, advisor or agent of, for or to the Company or any of its subsidiaries, that the Company or such subsidiaries, as applicable, shall be primarily liable for all indemnification, reimbursements, advancements or similar payments (the "Indemnity Obligations") afforded to such Indemnified Party acting in such capacity or

capacities on behalf or at the request of the Company, whether the Indemnity Obligations are created by law, organizational or constituent documents, contract (including this Agreement) or otherwise. The Company hereby agrees that in no event shall the Company or any of its subsidiaries have any right or claim against Summit for contribution or have rights of subrogation against Summit through an Indemnified Party for any payment made by the Company or any of its subsidiaries with respect to any Indemnity Obligation, and waives, relinquishes and releases Summit from any such claim. In addition, the Company hereby agrees that in the event that Summit pay or advance an Indemnified Party any expenses with respect to an Indemnity Obligation, the Company will, or will cause its subsidiaries to, as applicable, promptly reimburse Summit, for such payment or advance upon request; subject to the receipt by the Company of a written undertaking executed by the Indemnified Party and Summit, that makes such payment or advance to repay any such amounts if it shall ultimately be determined by a court of competent jurisdiction that such Indemnified Party was not entitled to be indemnified by the Company. The foregoing right to indemnity shall be in addition to any rights that any Indemnified Party may have at common law or otherwise and shall remain in full force and effect following the completion or any termination of the engagement. If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient to hold it harmless as and to the extent contemplated by this Section 7, then the Company shall contribute to the amount paid or payable by the Indemnified Party as a result of such Action in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Indemnified Party, as the case may be, on the other hand, as well as any other relevant equitable considerations.

(b) The Company hereby acknowledges that the certain of the Indemnified Parties have certain rights to indemnification, advancement of expenses and/or insurance provided by investment funds managed by Summit and certain of their Affiliates (collectively, the "Fund Indemnitors"). The Company hereby agrees with respect to any indemnification, hold harmless obligation, expense advancement or reimbursement provision or any other similar obligation whether pursuant to or with respect to this Agreement, the organizational documents of the Company or any of its subsidiaries or any other agreement, as applicable, (i) that the Company and its subsidiaries are the indemnitee of first resort (i.e., their obligations to the Indemnified Parties are primary and any obligation of the Fund Indemnitors to advance expenses or to provide indemnification for claims, expenses or obligations arising out of the same or similar facts and circumstances suffered by any Indemnified Party are secondary), (ii) that the Company shall be required to advance the full amount of expenses incurred by any Indemnified Party and shall be liable for the full amount of all expenses, liabilities, obligations, judgments, penalties, fines, and amounts paid in settlement to the extent legally permitted and as required by the terms of this Agreement, the organizational documents of the Company or any of its subsidiaries or any other agreement, as applicable, without regard to any rights any Indemnified Party may have against the Fund Indemnitors, and (iii) that the Company, on behalf of itself and each of its subsidiaries, irrevocably waives, relinquishes and releases the Fund Indemnitors from any and all Actions against the Fund Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Company further agrees that no advancement or payment by the Fund Indemnitors on behalf of any Indemnified Party with respect to any Action for which any Indemnified Party has sought indemnification from the Company shall affect the foregoing and the Fund Indemnitors shall have a right of contribution and/or be subrogated to the extent of such advancement or payment to all of the rights of recovery of any Indemnified Party against the Company. The Company agrees that the Fund Indemnitors are express third-party beneficiaries of the terms of this Section 7(b).

8. Headings. Headings are for ease of reference only and shall not form a part of this Agreement.

9. Governing Law. This Agreement shall be construed in accordance with and governed by the law of the State of Delaware without giving effect to the principles of conflicts of laws thereof.

10. Jurisdiction. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement may be brought against any of the parties in any federal court located in the State of Delaware or any Delaware state court, and each of the parties hereby consents to the exclusive jurisdiction of such court (and of the appropriate appellate courts) in any such suit, action or proceeding and waives any objection to venue laid therein. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each of the parties agrees that service of process upon such party at the address referred to in Section 17, together with written notice of such service to such party, shall be deemed effective service of process upon such party.

11. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

12. Entire Agreement. This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings and negotiations, both written and oral among the parties with respect to the subject matter hereof.

13. Counterparts; Effectiveness. This Agreement may be signed in any number of counterparts, each of which shall be deemed an original. This Agreement shall become effective when each party shall have received a counterpart hereof signed by each of the other parties. An executed copy or counterpart hereof delivered by facsimile shall be deemed an original instrument.

14. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

15. Further Assurances. Each of the parties hereto shall execute and deliver such further instruments and do such further acts and things as may be required to carry out the intent and purpose of this Agreement.

16. Specific Performance. Each of the parties hereto agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement or to enforce specifically the performance of the terms and provisions hereof in any federal or state court located in the State of Delaware, in addition to any other remedy to which they are entitled at law or in equity.

17. Notices. All notices, requests and other communications to any party or to the Company shall be in writing (including telecopy or similar writing) and shall be given,

If to the Company:

a.k.a. Brands Holding Corp.
100 Montgomery Street, Suite 1600
San Francisco, California 94104
Attention: Jill Ramsey
Email: [*****]

With a copy to (which shall not constitute notice):

Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, IL 60654
Attention: James Rowe
Michael P. Keeley
Email: james.rowe@kirkland.com; michael.keeley@kirkland.com

If to any member of Summit or any Nominee:

c/o Summit Partners, L.P.
222 Berkeley Street, 18th Floor
Boston, MA 02116
Attention: [*****]
[*****]
Email: [*****]

With a copy to (which shall not constitute notice):

Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, IL 60654
Attention: James Rowe
Michael P. Keeley
Email: james.rowe@kirkland.com; michael.keeley@kirkland.com

or to such other address or telecopier number as such party or the Company may hereafter specify for the purpose by notice to the other parties and the Company. Each such notice, request or other communication shall be effective when delivered at the address specified in this Section 17 during regular business hours.

18. Enforcement. Each of the parties hereto covenant and agree that the disinterested members of the Board have the right to enforce, waive or take any other action with respect to this Agreement on behalf of the Company.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

A.K.A. BRANDS HOLDING CORP.

By: /s/ Jill Ramsey
Name: Jill Ramsey
Title: Chief Executive Officer and Director

NEW EXCELERATE, L.P.

By /s/ Matthew Hamilton
Name: Matthew Hamilton
Title: Manager

SUMMIT PARTNERS, L.P.

By: Summit Master Company, LLC
Its: General Partner

By: /s/ Adam Hennessey
Name: Adam Hennessey
Title: Member

SUMMIT PARTNERS GE IX AIV, LTD.

By: Summit Partners, L.P.
Its: General Partner

By: Summit Master Company, LLC
Its: General Partner

By: /s/ Adam Hennessey
Name: Adam Hennessey
Title: Member

[Signature Page to Director Nomination Agreement]

SUMMIT PARTNERS GE IX AIV, L.P.

By: Summit Partners GE IX AIV, Ltd.
Its: General Partner

By: Summit Partners, L.P.
Its: General Partner

By: Summit Master Company, LLC
Its: General Partner

By: /s/ Adam H. Hennessey
Name: Adam H. Hennessey
Title: Member

**SUMMIT PARTNERS GROWTH EQUITY FUNDIX-B
AIV, L.P.**

By: Summit Partners GE IX AIV, L.P.
Its: General Partner

By: Summit Partners, L.P.
Its: General Partner

By: Summit Master Company, LLC
Its: General Partner

By: /s/ Adam H. Hennessey
Name: Adam H. Hennessey
Title: Member

SUMMIT PARTNERS GE IX, LLC

By: Summit Partners, L.P.
Its: Sole Member

By: Summit Master Company, LLC Its: General Partner

By: /s/ Adam H. Hennessey
Name: Adam H. Hennessey
Title: Member

[Signature Page to Director Nomination Agreement]

SUMMIT PARTNERS GE IX, L.P.

By: Summit Partners GE IX, LLC
Its: General Partner

By: Summit Partners, L.P.
Its: Sole Member

By: Summit Master Company, LLC
Its: General Partner

By: /s/ Adam H. Hennessey
Name: Adam H. Hennessey
Title: Member

**SUMMIT PARTNERS GROWTH EQUITY FUNDIX-A
AIV, L.P.**

By: Summit Partners GE IX, L.P.
Its: General Partner

By: Summit Partners GE IX, LLC
Its: General Partner

By: Summit Partners, L.P.
Its: Sole Member

By: Summit Master Company, LLC
Its: General Partner

By: /s/ Adam H. Hennessey
Name: Adam H. Hennessey
Title: Member

EXCELERATE GP, LTD.

By: /s/ Matthew Hamilton
Name: Matthew Hamilton
Title: Director

[Signature Page to Director Nomination Agreement]

SYNDICATED FACILITY AGREEMENT

Dated as of September 24, 2021

among

**A.K.A. BRANDS MIDCO HOLDING CORP.,
as the Lead Borrower,**

**A.K.A. BRANDS INTERMEDIATE HOLDING CORP.,
as Holdings,**

THE OTHER BORROWERS PARTY HERETO FROM TIME TO TIME,

**KEYBANK NATIONAL ASSOCIATION,
as Administrative Agent and Collateral Agent**

and

THE LENDERS PARTY HERETO

**KEYBANC CAPITAL MARKETS INC. and WELLS FARGO SECURITIES, LLC,
as Joint Lead Arrangers and Joint Lead Bookrunners**

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SYNDICATED FACILITY AGREEMENT

This SYNDICATED FACILITY AGREEMENT (this “**Agreement**”) is entered into as of September 24, 2021, among A.K.A. BRANDS MIDCO HOLDING CORP., a Delaware corporation (“**AKA**”), as a borrower (the “**Lead Borrower**”), the other Borrowers party hereto as of the Closing Date, certain Subsidiaries of the Lead Borrower party hereto pursuant to Section 2.21 (each, a “**Designated Borrower**” and, together with the Lead Borrower and the other Borrowers party hereto on the Closing Date, the “**Borrowers**” and each, individually, a “**Borrower**”), A.K.A. BRANDS INTERMEDIATE HOLDING CORP., a Delaware corporation (“**Holdings**”), KEYBANK NATIONAL ASSOCIATION (“**KeyBank**”), as administrative agent (in such capacity, including any permitted successor thereto, the “**Administrative Agent**”), as collateral agent and security trustee (in such capacities, including any permitted successor thereto, the “**Collateral Agent**”) and as a Lead Arranger, under the Loan Documents, each lender from time to time party hereto (collectively, the “**Lenders**” and, individually, each, a “**Lender**”), and the other Persons party hereto from time to time.

PRELIMINARY STATEMENTS

In connection with the Underwriting Agreement, dated as of September 21, 2021, by and among a.k.a. Brands Holding Corp., a Delaware corporation (the “**Public Parent**”), BofA Securities, Inc., Credit Suisse Securities (USA) LLC, Jefferies LLC and each of the other underwriters named in Schedule A thereto (together with the schedules and exhibits thereto, and as may be amended, modified, supplemented or waived from time to time, the “**Underwriting Agreement**”), the common stock of the Public Parent and the direct parent and sole shareholder of Holdings, which is the direct parent and sole shareholder of the Lead Borrower, will be sold and, subsequently thereafter, the Public Parent will become publicly listed on the New York Stock Exchange, a United States national securities exchange (the “**Closing Date IPO**”). The Borrowers have requested that, substantially simultaneously with the consummation of the Closing Date IPO, the Lenders extend credit to the Borrowers in the form of (i) Initial Term Loans on the Closing Date in an initial aggregate principal amount of \$100,000,000 pursuant to this Agreement and (ii) a Revolving Credit Facility in an initial aggregate principal committed amount of \$50,000,000 pursuant to this Agreement. The Revolving Credit Facility will include (i) a sub-limit for the making of one or more Swing Line Loans from time to time and (ii) a separate sub-limit for the issuance of one or more Letters of Credit from time to time.

The proceeds of the Initial Term Loans, together with the proceeds of any initial borrowing under the Revolving Credit Facility on the Closing Date, will be used (i) to finance a portion of the Transactions and to pay certain of the Transaction Expenses, (ii) to refinance all third-party debt for borrowed money other than Indebtedness permitted under this Agreement (the “**Refinancing**”) and (iii) for working capital and other general corporate purposes.

The Letters of Credit, Swing Line Loans and proceeds of Borrowings under the Revolving Credit Facility made after the Closing Date will be used by the Borrowers and Holdings’ other Subsidiaries for working capital and other general corporate purposes (including to fund capital expenditures, Permitted Acquisitions and other permitted Investments, Restricted Payments, refinancing of indebtedness and any other transaction not prohibited by this Agreement).

The Lenders have indicated their willingness to lend, and the L/C Issuers have indicated their willingness to issue Letters of Credit, in each case, on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

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

“**Acceptable Discount**” has the meaning specified in Section 2.05(a)(v)(D)(1).

“Acceptable Prepayment Amount” has the meaning specified in Section 2.05(a)(v)(D)(2).

“Acceptance and Prepayment Notice” means a notice of the applicable Borrower Party’s acceptance of the Acceptable Discount in substantially the form of Exhibit P.

“Acceptance Date” has the meaning specified in Section 2.05(a)(v)(D)(1).

“Additional Lender” means, at any time, any bank, other financial institution or institutional investor or other entity that, in any case, is not an existing Lender and that agrees to provide any portion of any (a) New Term Commitment, New Term Loan, New Revolving Credit Commitment or New Revolving Credit Loan in accordance with Section 2.14, (b) Refinancing Loans or Refinancing Commitments in accordance with Section 2.15 or (c) Replacement Term Loans pursuant to Section 10.01; provided that each Additional Lender shall be subject to the approval of the Administrative Agent (such approval not to be unreasonably withheld or delayed), in each case to the extent any such consent would be required from the Administrative Agent under Section 10.07(b)(iii)(B) or an assignment of Loans to such Additional Lender, and the consent of the Lead Borrower, to the extent required under Section 10.07(b)(iii)(A); provided further that no Additional Lender shall be (i) a Disqualified Institution, (ii) any other Person that is not an Eligible Assignee or (iii) Holdings or any Subsidiary thereof.

“Adjusted Eurocurrency Rate” means, with respect to any Eurocurrency Rate Borrowing for any Interest Period, an interest rate per annum equal to the Eurocurrency Rate based on clause (a) of the definition of **“Eurocurrency Rate”** for such Interest Period, multiplied by the Statutory Reserve Rate; provided that the Eurocurrency Rate will be deemed not to be less than 0.00% per annum. The Adjusted Eurocurrency Rate will be adjusted automatically with respect to all Eurocurrency Rate Borrowings then outstanding as of the effective date of any change in the Statutory Reserve Rate.

“Administrative Agent” has the meaning specified in the introductory paragraph to this Agreement. Unless the context otherwise requires, the term **“Administrative Agent”** as used herein and in the other Loan Documents shall include the Collateral Agent.

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

“Administrative Questionnaire” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

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

“Affected Subsidiary” means, solely as related to payment, performance or guaranty in respect of U.S. Obligations and/or the provision of collateral security therefor, any Subsidiary (or any direct or indirect subsidiary thereof) described in clause (e), (f) or (j) of the definition of Excluded Subsidiary.

“Affiliate” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. **“Control”** means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. **“Controls”** and **“Controlled”** have meanings correlative thereto. For the avoidance of doubt, none of the Lead Arrangers, the Bookrunners, the Agents or their respective lending Affiliates shall be deemed to be an Affiliate of Holdings, any Borrower or any of the other Subsidiaries. For purposes of this Agreement and the other Loan Documents, Jefferies LLC and its Affiliates shall be deemed to be Affiliates of Jefferies Finance LLC and its Affiliates.

“Affiliated Debt Fund” means any Affiliate of the Borrowers (other than Holdings or any of its Subsidiaries) that is a bona fide debt fund or an investment vehicle that is primarily engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of business and with respect to which investment vehicles managed or advised by Summit Partners, L.P. that are not engaged primarily in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of business do not make investment decisions for such Affiliate; *provided* that, for the avoidance of doubt, the purchasing, holding or otherwise investing in equity by any bona fide debt fund or investment vehicle shall not preclude such bona fide debt fund or investment vehicle from being an Affiliated Debt Fund so long as such bona fide debt fund or investment vehicle otherwise satisfies the requirements of this definition.

“Affiliated Lender” means, at any time, any Lender that is Summit Partners that, at such time, is an Affiliate of the Borrowers (other than (a) a natural Person, (b) Holdings, the Borrowers or any of their respective Subsidiaries and (c) any Affiliated Debt Fund).

“Affiliated Lender Cap” has the meaning specified in Section 10.07(h)(iii).

“Agent-Related Distress Event” means with respect to the Administrative Agent or the Collateral Agent or any Person that directly or indirectly controls the Administrative Agent or the Collateral Agent, as the case may be (each, a “**Distressed Agent-Related Person**”), a voluntary or involuntary case with respect to such Distressed Agent-Related Person under any Debtor Relief Law, or a custodian, conservator, receiver or similar official is appointed for such Distressed Agent-Related Person or any substantial part of such Distressed Agent-Related Person’s assets, or such Distressed Agent-Related Person makes a general assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any Governmental Authority (having regulatory authority over such Distressed Agent-Related Person) to be, insolvent or bankrupt or such Distressed Agent-Related Person suffers an Australian Insolvency Event; *provided* that an Agent-Related Distress Event shall not be deemed to have occurred solely by virtue of the ownership or acquisition of any Equity Interests in the Administrative Agent or the Collateral Agent or any person that directly or indirectly controls the Administrative Agent or the Collateral Agent, as the case may be, by a Governmental Authority.

“Agent-Related Persons” means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents, attorney-in-fact, partners, trustees and advisors of such Persons and of such Persons’ Affiliates.

“Agents” means, collectively, the Administrative Agent, the Collateral Agent and the Supplemental Administrative Agents (if any).

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

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

“Agreement Currency” has the meaning specified in Section 10.26.

“AHYDO Catch-Up Payment” means with respect to any debt instrument of the Borrowers that is permitted under this Agreement and which has a term in excess of five years from its issue date, the minimum amount of payments necessary to be made after the fifth year anniversary of the issue date of such debt instrument such that such debt instrument is not an “applicable high yield debt obligation” within the meaning of Section 163(e)(5) of the Code.

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

“All-In Yield” means, as to any Indebtedness, the yield thereof at the time of determination, whether in the form of interest rate, margin, OID, upfront fees, a Eurocurrency Rate floor or Base Rate floor or otherwise; provided that OID and upfront fees shall be equated to interest rate assuming a 4-year life to maturity (or, if less, the stated life to maturity at the time of incurrence of the applicable Indebtedness); and *further*, that “All-In Yield” shall not include (x) arrangement fees, commitment fees, amendment fees, ticking fees, structuring fees or underwriting or similar fees paid to arrangers for such Indebtedness or other fees that are not paid generally to all lenders of such Indebtedness, (y) bona fide ticking fees or unused line fees, it being understood, in each case, that whether such fee is bona fide is determined at the time the amount of such fee is agreed and (z) customary consent and amendment fees paid generally to consenting Lenders.

“Allocable Revolving Share” means, at any time, with respect to the Revolving Credit Commitments of any Class, the percentage of the total Revolving Credit Commitments represented at such time by such Class; provided that if any such Class of Revolving Credit Commitments has been terminated, then the Allocable Revolving Share of each applicable Lender shall be determined based on the Allocable Revolving Share of such Lender immediately prior to such termination and after giving effect to any subsequent assignments made pursuant to the terms hereof.

“Ancillary Fees” has the meaning specified in Section 10.01(ix).

“Annual Financial Statements” means means the audited consolidated balance sheets of Excelerate, L.P. and its Subsidiaries as of December 31, 2020 and the related consolidated statements of income or operations (as applicable), changes in members’ equity and cash flows for such fiscal year.

“Applicable Discount” has the meaning specified in Section 2.05(a)(v)(C)(1).

“Applicable Indebtedness” has the meaning specified in the definition of “**Weighted Average Life to Maturity**.”

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

(a) (i) until the first day of the month following the date on which financial statements and the related Compliance Certificate for the fiscal year ending December 31, 2021 are required to be delivered pursuant to Section 6.01(b) and Section 6.02(a), respectively, (x) 2.25% in the case of Base Rate Loans, (y) 3.25% in the case of Eurocurrency Rate Loans and (z) 3.25% in the case of BBSY Rate Loans; and (ii) thereafter, the applicable rate *per annum* corresponding to the applicable Total Net First Lien Leverage Ratio, all as set forth in the following pricing grid:

Total Net First Lien Leverage Ratio	Base Rate Loans	Eurocurrency Rate Loans	BBSY Rate Loans
Greater than 2.75 to 1.00	2.25%	3.25%	3.25%
Less than or equal to 2.75 to 1.00 but greater than 2.25 to 1.00	2.00%	3.00%	3.00%
Less than or equal to 2.25 to 1.00 but greater than 1.50 to 1.00	1.75%	2.75%	2.75%
Less than or equal to 1.50 to 1.00	1.50%	2.50%	2.50%

(b) With respect to commitment fees payable in respect of Revolving Credit Commitments, (i) until the first day of the month following the date on which financial statements and the related Compliance Certificate for the fiscal year ending December 31, 2021 are required to be delivered pursuant to Section 6.01(b) and Section 6.02(a), respectively, the Applicable Rate shall be 0.35%; and (ii) thereafter, the applicable rate *per annum* corresponding to the applicable Total Net First Lien Leverage Ratio, all as set forth in the following pricing grid:

Total Net First Lien Leverage Ratio	Commitment Fee
Greater than 2.75 to 1.00	0.35%
Less than or equal to 2.75 to 1.00 but greater than 2.25 to 1.00	0.30%
Less than or equal to 2.25 to 1.00 but greater than 1.50 to 1.00	0.27%
Less than or equal to 1.50 to 1.00	0.25%

The Applicable Rate shall be adjusted quarterly, on a prospective basis, on the first Business Day following the date on which the financial statements (and a corresponding Compliance Certificate) for the last fiscal quarter or year, as applicable, are delivered to the Administrative Agent that evidence the need for such adjustment in accordance with the pricing grid set forth above. Notwithstanding the foregoing, if the Borrowers fail to deliver the financial statements required by Section 6.01(a) or Section 6.01(b), and the corresponding Compliance Certificate required by Section 6.02(a), by the respective dates required thereunder, the Applicable Rate shall be the rates corresponding to the Total Net First Lien Leverage Ratio of "Greater than 2.75 to 1.00" in the applicable pricing grid set forth above until such financial statements and Compliance Certificate are delivered.

In the event that it is subsequently determined that the calculation of the Total Net First Lien Leverage Ratio on which the applicable interest rate for any particular period was determined is inaccurate for any reason and the result thereof is that the Lenders received interest for any period based on an Applicable Rate that is different than that which would have been applicable had the Total Net First Lien Leverage Ratio been accurately determined, (i) the Lead Borrower shall promptly deliver to the Administrative Agent an updated Compliance Certificate for such period, (ii) the Administrative Agent shall notify the Lead Borrower of the amount of interest that would have accrued in respect of any outstanding Loans during such period had the applicable interest rate been calculated based on the correct Total Net First Lien Leverage Ratio, and (iii) (a) if the Applicable Rate would have been higher for such period, the Borrowers shall promptly pay to the Administrative Agent for the benefit of the applicable Lenders the difference between the amount that would have accrued and been due and payable and the amount actually paid in respect of such period and (b) if the Applicable Rate would have been lower for such period, the Administrative Agent shall credit the Borrowers on future interest payments on behalf of the applicable Lenders the difference between the amount that would have accrued and been due and payable and the amount actually paid in respect of such period. Notwithstanding the foregoing, any underpayment due to a change in Applicable Rate shall not in itself constitute a Default or Event of Default under Section 8.01(a) so long as such additional interest or fees are paid as set forth above.

Notwithstanding the foregoing, the Applicable Rate in respect of Extended Term Loans of any Term Loan Extension Series, Extended Revolving Credit Loans of any Revolving Credit Loan Extension Series, Refinancing Term Loans, Refinancing Revolving Credit Loans, New Term Commitments, New Term Loans, New Revolving Credit Commitments, New Revolving Credit Loans or Replacement Term Loans shall be the applicable percentages per annum provided pursuant to the applicable Extension Amendment, Refinancing Amendment, Incremental Amendment or amendment to this Agreement in respect of Replacement Term Loans, as the case may be. The Applicable Rate in respect of Extended Term Loans of any Term Loan Extension Series, Extended Revolving Credit Loans of any Revolving Credit Loan Extension Series, Refinancing Term Loans, Refinancing Revolving Credit Loans, New Term Commitments, New Term Loans, New Revolving Credit Commitments, New Revolving Credit Loans or Replacement Term Loans may be further adjusted as may be agreed by the relevant Lenders and the Lead Borrower in connection with any Extension Amendment, Refinancing Amendment, Incremental Amendment or amendment to this Agreement in respect of Replacement Term Loans, as the case may be.

"**Applicant Borrower**" has the meaning specified in Section 2.21(a).

"**Appropriate Lender**" means, at any time, (a) with respect to Loans or Commitments of any Class, the Lenders of such Class, (b) with respect to any Letters of Credit, (i) the relevant L/C Issuers and (ii) the Revolving Credit Lenders, and (c) with respect to the Swing Line Facility, (i) the Swing Line Lender and (ii) the Revolving Credit Lenders.

"**Approved Fund**" means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

"**Assignee Group**" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"**Assignment and Assumption**" means an Assignment and Assumption substantially in the form of ExhibitE-1 or any other form approved by the Administrative Agent and the Lead Borrower.

"**Associate**" has the meaning given to it in Section 128F(9) of the Australian Tax Act.

"Attorney Costs" means all reasonable and documented (in reasonable detail) fees, expenses and disbursements of any law firm or other external legal counsel.

"Attributable Indebtedness" means, on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP or IFRS, as applicable.

"Auction Agent" means (a) the Administrative Agent or (b) any other financial institution or other advisor employed by the Borrowers or any other Borrower Party (whether or not an Affiliate of the Administrative Agent) to act as an arranger in connection with any Discounted Loan Prepayment pursuant to Section 2.05(a)(v); provided that the Lead Borrower shall not designate the Administrative Agent as the Auction Agent without the written consent of the Administrative Agent (it being understood that the Administrative Agent shall be under no obligation to agree to act as the Auction Agent); *provided, further*, that none of the Borrowers nor any of their Affiliates may act as the Auction Agent.

"Australian Controller" has the meaning given to the term "controller" in section 9 of the Australian Corporations Act.

"Australian Corporations Act" means the *Corporations Act 2001* (Cth).

"Australian Insolvency Event" means, in respect of a corporation, any of the following events:

(a) the corporation is dissolved or deregistered (whether pursuant to Chapter 5A of the Australian Corporations Act or otherwise) (in each case, other than to carry out a reorganisation or amalgamation while solvent which is expressly permitted by this Agreement);

(b) an Australian Controller, liquidator, provisional or interim liquidator, receiver, statutory manager or administrator is appointed in respect of the corporation or any of its assets;

(c) an application or petition is made to a court, a meeting is convened or a resolution is passed for the corporation to be wound up or dissolved or for the appointment of an Australian Controller, liquidator, provisional or interim liquidator, receiver, receiver and manager, statutory manager or administrator to the corporation or any of its assets and such application is not withdrawn or dismissed within sixty (60) days (in each case, other than to carry out a reorganisation or amalgamation while solvent which is expressly permitted by this Agreement);

(d) the corporation (i) resolves to enter into, or enters into, a scheme of arrangement, a deed of company arrangement, an amalgamation, a compromise, arrangement or composition with its creditors (or any class thereof) or an assignment for their benefit, (ii) proposes or is subject to a moratorium of its debts (or any class thereof); or (iii) takes proceedings or actions similar to those mentioned in this paragraph as a result of which the corporation's assets are, or are proposed to be, submitted to the control of its creditors (or any class thereof);

(e) the corporation seeks or obtains protection from its creditors (or any class thereof) under any statute or any other law;

(f) the corporation is taken (under section 459F(1) of the Australian Corporations Act) to have failed to comply with a statutory demand;

(g) the corporation is the subject of an event described in section 459C(2)(b) or section 585 of the Australian Corporations Act;

(h) the corporation is unable to pay all of its debts as and when they become due and payable, is insolvent within the meaning of section 95A of the Australian Corporations Act or suspends making payments on any of its debts; or

(i) an event occurs in relation to the corporation which is analogous to anything referred to above or which has a substantially similar effect;

provided that a reference in this definition to a “corporation” includes a reference to a trust or any other entity.

“Australian Loan Party” means any Loan Party incorporated or organized under the laws of Australia or any state or territory thereof.

“Australian Prime Bank” means a bank determined by the ASX Benchmarks Pty Limited (or any other person which takes over the administration of the screen rate for Australian dollars) as being a ‘Prime Bank’ in Australia or an acceptor or issuer of bills of exchange or negotiable certificates of deposit for the purposes of calculating that screen rate. If the ASX Benchmarks Pty Limited or such other person ceases to make such determination, the Australian Prime Banks shall be the Australian Prime Banks last so appointed.

“Australian Reference Bank” means Australia and New Zealand Banking Group Limited, Commonwealth Bank of Australia, National Australia Bank Limited and Westpac Banking Corporation, or such other entities as may be agreed between the Administrative Agent and the Lead Borrower.

“Australian Reference Bank Rate” means the sum of:

(a) the following rates:

(i) the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Administrative Agent at its request by the Australian Reference Banks as the mid discount rate (expressed as a yield percent to maturity) observed by the relevant Australian Reference Bank for marketable parcels of Australian dollar denominated bank accepted bills and negotiable certificates of deposit accepted or issued by Australian Prime Banks, and which mature on the last day of the relevant period; or

(ii) (if there is no observable market rate for marketable parcels of Australian Prime Bank Australian dollar securities referred to in paragraph (i) above), the arithmetic mean of the rates (rounded upwards to four decimal places) as supplied to the Administrative Agent at its request by the Australian Reference Banks as the rate at which the relevant Australian Reference Bank could borrow funds in Australian dollars in the Australian interbank market for the relevant period were it to do so by asking for and then accepting interbank offers for deposits in reasonable market sizes and for that period; and

(b) 0.05 per cent per annum.

“Australian Security Agreement” means, collectively (i) that certain General Security Deed, to be granted by each Australian Loan Party in favor of the Collateral Agent, (ii) that certain Security Trust Deed executed by the Collateral Agent and (iii) each agreement or instrument governed by the laws of Australia pursuant to or in connection with which any Loan Party grants a security interest in any Collateral for any of the Obligations and any security trust deed related thereto, each as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Australian Subsidiary” means any Subsidiary incorporated or organized under the laws of Australia or any state or territory thereof.

“Australian Tax Act” means the Income Tax Assessment Act 1936 (Cth) or the Income Tax Assessment Act 1997 (Cth), as applicable.

“Available Amount” means, at any time (the **“Reference Date”**), the sum of:

(a) \$5,000,000; plus

(b) an amount equal to (x) the cumulative amount of Excess Cash Flow (which amount shall not be less than zero in any fiscal year of the Borrowers and the Restricted Subsidiaries for the Available Amount Reference Period minus (y) the portion of such Excess Cash Flow that has been (or is required to be) applied to the prepayment of Loans in accordance with Section 2.05(b)(i); plus

(c) to the extent not applied as an “**Excluded Contribution**” or included in the definition of “**Specified Equity Contribution**”, the amount of any capital contributions made in cash, Cash Equivalents, property (valued at the fair market value thereof) or Net Cash Proceeds from Permitted Equity Issuances (or issuances of debt securities that have been converted into or exchanged for Qualified Equity Interests) received or made by the Borrowers (or any direct or indirect parent thereof and contributed by such parent to the Borrowers) during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date and Not Otherwise Applied; plus

(d) to the extent not (A) included in clause (b) above or (B) already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, the aggregate amount of all Returns (including all cash repayment of principal) received in cash or Cash Equivalents by the Borrowers or any other Restricted Subsidiary from any Investment or Unrestricted Subsidiary during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date, in each case to the extent any such Investment was made using the Available Amount pursuant to Section 7.02(j); plus

(e) to the extent not (A) included in clause (b) above, (B) already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment or (C) required to be applied to prepay Term Loans in accordance with Section 2.05(b)(ii), the aggregate amount of all Net Cash Proceeds received by the Borrowers or any other Restricted Subsidiary in connection with the sale, transfer or other disposition of any Investment or its ownership interest in any Unrestricted Subsidiary during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date, in each case to the extent any such Investment was made using the Available Amount pursuant to Section 7.02(j); plus

(f) to the extent not (A) included in clause (b) above or (B) already reflected as a return of capital with respect to such Investment for purposes of determining the amount of such Investment, in the event that the Lead Borrower redesignates any Unrestricted Subsidiary as a Restricted Subsidiary after the Closing Date (which, for purposes hereof, shall be deemed to also include (1) the merger, consolidation, liquidation or similar amalgamation of any Unrestricted Subsidiary into any Borrower or any Restricted Subsidiary, so long as such Borrower or such Restricted Subsidiary is the surviving Person, and (2) the transfer of all or substantially all of the assets of an Unrestricted Subsidiary to any Borrower or any Restricted Subsidiary), the fair market value (as reasonably determined by the Lead Borrower) of the Investment in such Unrestricted Subsidiary at the time of such redesignation, in each case to the extent such Investment in such Unrestricted Subsidiary was made using the Available Amount pursuant to Section 7.02(j); plus

(g) to the extent not applied as an “**Excluded Contribution**”, the Net Cash Proceeds received by any Borrower or any of the other Restricted Subsidiaries of any Indebtedness or Disqualified Equity Interests incurred or issued by any Borrower or any of the other Restricted Subsidiaries after the Closing Date that is exchanged or converted into Qualified Equity Interests of Holdings (or any direct or indirect parent of Holdings); plus

(h) Borrower Retained Prepayment Amounts; minus

(i) any Investments made pursuant to Section 7.02(j) (which amounts, for the avoidance of doubt, shall, in each case, be net of Returns with respect to any such Investment in accordance with the definition of “**Investment**”), any Restricted Payment made pursuant to Section 7.06(c) or any payment made pursuant to Section 7.12(a)(v), in each case, during the period commencing on the Business Day immediately following the Closing Date and ending on the Reference Date (and, for purposes of this clause (i), without taking account of the intended usage of the Available Amount on such Reference Date in the contemplated transaction), in each case, in reliance on the Available Amount.

“**Available Amount Reference Period**” means, with respect to any Reference Date, the period commencing on October 1, 2021 and ending on the last day of the most recent fiscal year for which financial statements required to be delivered pursuant to Section 6.01(a), and the related Compliance Certificate required to be delivered pursuant to Section 6.02(a), have been received by the Administrative Agent.

“Available Incremental Amount” means an aggregate principal amount of up to (a) an unlimited amount of New Term Loans, New Revolving Credit Commitments and any Incremental Equivalent Debt so long as (i) in the case of New Term Loans, New Revolving Credit Commitments and/or Incremental Equivalent Debt that is secured on a *pari passu* lien basis with the Revolving Credit Loans and the Term Loans, the Total Net First Lien Leverage Ratio for the Test Period ended most recently prior to the incurrence or issuance of such New Term Loans, New Revolving Credit Commitments and/or Incremental Equivalent Debt, as the case may be, after giving Pro Forma Effect to such incurrence or issuance), is less than or equal to 2.00 to 1.00, (ii) in the case of New Term Loans, New Revolving Credit Commitments and/or Incremental Equivalent Debt that rank junior in right of security with respect to the Liens securing the Revolving Credit Loans and Term Loans, the Total Net Secured Leverage Ratio for the Test Period ended most recently prior to the incurrence or issuance of such New Term Loans, New Revolving Credit Commitments and/or Incremental Equivalent Debt, as the case may be, after giving Pro Forma Effect to such incurrence or issuance, is less than or equal to 2.50 to 1.00 or (iii) in the case of New Term Loans, New Revolving Credit Commitments and/or Incremental Equivalent Debt that are unsecured, the Total Net Leverage Ratio for the Test Period ended most recently prior to the incurrence or issuance of such New Term Loans, New Revolving Credit Commitments and/or Incremental Equivalent Debt, as the case may be, after giving Pro Forma Effect to such incurrence or issuance, is less than or equal to 2.75 to 1.00; provided that in the case of any single transaction that provides for the incurrence or issuance of New Revolving Credit Commitments, New Term Commitments, New Term Loans and/or Incremental Equivalent Debt under this clause (a) and clause (b) or (c) below, compliance with the Total Net First Lien Leverage Ratio, Total Net Secured Leverage Ratio or Total Net Leverage Ratio, as applicable, shall be determined for purposes of this clause (a) by giving the single transaction Pro Forma Effect but excluding in such determination of the Total Net First Lien Leverage Ratio, Total Net Secured Leverage Ratio or Total Net Leverage Ratio, as applicable, the aggregate amount of Indebtedness incurred or issued in reliance on clause (b) or (c) below; plus (b) \$50,000,000 (which amount shall be reduced by the aggregate principal amount of any New Term Loans, New Revolving Credit Commitments and Incremental Equivalent Debt incurred in reliance on this clause (b) and shall not be reduced by any amount incurred or issued in reliance on the immediately preceding clause (a) or clause (c) below); plus (c) an amount equal to all voluntary prepayments of the Term Loan Facility, any New Term Loans or Revolving Credit Loans to the extent accompanied by permanent commitment reductions of the Revolving Credit Commitments (except, in each case, to the extent funded with proceeds of long-term indebtedness); provided further that the Lead Borrower may elect to use clause (a) above prior to clause (b) and clause (c), and if both clause (a) above and clause (b) and/or clause (c) are available and the Lead Borrower does not make an election, the Lead Borrower will be deemed to have elected clause (a) above.

“Available Tenor” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current Benchmark is a term rate, any tenor for such Benchmark that is or may be used for determining the length of an Interest Period or (y) otherwise, any payment period for interest calculated with reference to such Benchmark, as applicable, pursuant to this Agreement as of such date.

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

“Bail-In Legislation” means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, rule, regulation or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

“Base Rate” means, for any day, a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the Prime Rate and (c) to the extent ascertainable, the Adjusted Eurocurrency Rate on such day for an Interest Period of one (1) month plus 1.00% (or, if such day is not a Business Day, the immediately preceding Business Day). Any change in the Base Rate due to a change in the **“Prime Rate”**, the Federal Funds Rate or the Adjusted Eurocurrency Rate shall be effective on the day of such change in the **“Prime Rate”**, the Federal Funds Rate or the Adjusted Eurocurrency Rate, respectively.

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

"BBSY Bid" means in relation to any Loan in Australian dollars:

(a) the applicable BBSY Screen Rate as at as of 11.00 a.m. Sydney time on that day for Australian dollars and for a period equal in length to the Interest Period of that Loan; or

(b) if no BBSY Screen Rate is available for BBSY Bid for the Interest Period of a Loan in Australian dollars, the applicable BBSY Bid shall be the BBSY Interpolated Screen Rate for a period equal in length to the Interest Period of that Loan, except where the Interest Period of that Loan is less than the shortest period published for BBSY Bid, in which case it will be BBSY Bid for the shortest period published for BBSY Bid; or

(c) if it is not possible to calculate the BBSY Interpolated Screen Rate the applicable BBSY Bid shall be the Australian Reference Bank Rate as of 11.00 a.m. Sydney time on that day for Australian dollars for the currency of that Loan and for a period equal in length to the Interest Period of that Loan;

provided if, in either case, that rate is less than zero, BBSY Bid shall be deemed to be zero.

"BBSY Interpolated Screen Rate" means, in relation to any Loan, the rate (rounded to the same number of decimal places as the two relevant BBSY Screen Rates) which results from interpolating on a linear basis between (a) the applicable BBSY Screen Rate for the longest period (for which that BBSY Screen Rate is available) which is less than the Interest Period of that Loan and (b) the applicable BBSY Screen Rate for the shortest period (for which that BBSY Screen Rate is available) which exceeds the Interest Period of that Loan, in each case, as of 11.00 a.m. Sydney time on that day.

"BBSY Rate Loan" means any Loan in Australian dollars.

"BBSY Screen Rate" means:

(a) the Australian Bank Bill Swap Reference Rate (Bid) administered by ASX Benchmarks Pty Limited (or any other person which takes over the administration of that rate) for the relevant period displayed on page BBSY of the Thomson Reuters Screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Administrative Agent may specify another page or service displaying the relevant rate after consultation with the Lead Borrower; and

(b) if the rate described in clause (a) above is not available, the sum of:

(i) the Australian Bank Bill Swap Reference Rate administered by ASX Benchmarks Pty Limited (or any other person which takes over the administration of that rate) for the relevant period displayed on page BBSW of the Thomson Reuters Screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Administrative Agent may specify another page or service displaying the relevant rate after consultation with the Lead Borrower; and

(ii) 0.05 per cent per annum.

"Benchmark" means, initially, Relevant Rate;*provided* that if a replacement of the Benchmark has occurred pursuant to [Section 3.03\(b\)](#), then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate. Any reference to "Benchmark" shall include, as applicable, the published component used in the calculation thereof.

“Benchmark Replacement” means, for any Available Tenor:

- (1) for purposes of Section 3.03(b)(i), the first alternative set forth below for Loans denominated in Dollars that can be determined by the Administrative Agent (with the consent of the Lead Borrower) for the applicable Benchmark; *provided* that with respect to any Loan denominated in Australian Dollars, “Benchmark Replacement” shall mean the alternative set forth in clause (2) below:
 - (a) in the case of Loans denominated in Dollars,
 - i. the sum of: (A) Term SOFR and (B) 0.11448% (11.448 basis points) for an Available Tenor of one-month’s duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months’ duration, and 0.42826% (42.826 basis points) for an Available Tenor of six-months’ duration; *provided*, that, if the Lead Borrower has provided a notification to the Administrative Agent in writing on or prior to the date on which the Benchmark Replacement will become effective that any Borrower has a Swap Contract in place with respect to any of the Loans as of the date of such notice (which such notification the Administrative Agent shall be entitled to rely upon and shall have no duty or obligation to ascertain the correctness or completeness of), then the Administrative Agent, in its sole discretion, may decide not to determine the Benchmark Replacement pursuant to this clause (1)(a)(i) for such Benchmark Transition Event or Early Opt-in Election, as applicable, or
 - ii. the sum of: (A) Daily Simple SOFR and (B) the spread adjustment for an Available Tenor of one-month’s duration (0.11448% (11.448 basis points))
provided, however, that if an Early-Opt-in Election has been made, the Benchmark Replacement will be the benchmark selected in connection with such Early Opt-in Election; and
- (2) for purposes of Section 3.03(b)(ii) and for Loans denominated in Australian Dollars, the sum of (a) the alternate benchmark rate selected by the Administrative Agent and the Lead Borrower as the replacement for the relevant then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the relevant then-current Benchmark for syndicated credit facilities denominated in the applicable currency at such time and (b) the related Benchmark Replacement Adjustment;
provided that, if the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“Benchmark Replacement Adjustment” means, with respect to any replacement of a then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement, for purposes of clause (2) of the definition of “Benchmark Replacement”, 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 the Administrative Agent and the Lead Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body and/or (ii) 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 such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in the applicable currency 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 “Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents); *provided* that, notwithstanding anything herein to the contrary, no “Benchmark Replacement Conforming Changes” shall result in any material effect on the timing or amount of payments or Borrowings.

“Benchmark Transition Event” means, with respect to any then-current Benchmark (other than USD LIBOR), the occurrence of a public statement or publication of information by or on behalf of the administrator of the then-current Benchmark, the regulatory supervisor for the administrator of such Benchmark, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark, a resolution authority with jurisdiction over the administrator for such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, announcing or stating that (a) such administrator has ceased or will cease on a specified date to provide all Available Tenors of such Benchmark, permanently or indefinitely; *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark or (b) all Available Tenors of such Benchmark are or will no longer be representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored.

“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.

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

“Bookrunners” means KeyBanc Capital Markets Inc. and Wells Fargo Securities, LLC, in their capacities as joint bookrunners under this Agreement.

“Borrower” and **“Borrowers”** have the meanings specified in the introductory paragraph to this Agreement.

“Borrower Offer of Specified Discount Prepayment” means the offer by the applicable Borrower Party to make a voluntary prepayment of Term Loans at a specified discount to par pursuant to Section 2.05(a)(v)(B).

“Borrower Parties” means the collective reference to Holdings, the Borrowers and their respective Restricted Subsidiaries, and **“Borrower Party”** means any one of them.

“Borrower Retained Prepayment Amounts” has the meaning specified in Section 2.05(b)(v).

“Borrower Solicitation of Discount Range Prepayment Offers” means the solicitation by the applicable Borrower Party of offers for, and the corresponding acceptance by a Lender of, a voluntary prepayment of Term Loans at a specified range of discounts to par pursuant to Section 2.05(a)(v)(C).

“Borrower Solicitation of Discounted Prepayment Offers” means the solicitation by the applicable Borrower Party of offers for, and the subsequent acceptance, if any, by a Lender of, a voluntary prepayment of Term Loans at a discount to par pursuant to Section 2.05(a)(v)(D).

“Borrowing” means a Revolving Credit Borrowing, a Swing Line Borrowing or a Term Borrowing, as the context may require.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, New York, New York and/or Cleveland, Ohio and if such day relates to any interest rate settings as to (a) a Eurocurrency Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurocurrency Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank market; *provided* that, when used in connection with SOFR, the component of the Base Rate based upon SOFR or any other calculation or determination involving SOFR, the term “Business Day” means any such day that is also a U.S. Government Securities Business Day or (b) a BBSY Rate Loan, any fundings, disbursements, settlements and payments in respect of any such BBSY Rate Loan, or any other dealings to be carried out pursuant to this Agreement in respect of any such BBSY Rate Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in Sydney, Australia.

“Capital Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including in all events all amounts expended or capitalized under Capitalized Leases) by Holdings, the Borrowers and the Restricted Subsidiaries during such period that, in conformity with GAAP or IFRS, as applicable, are or are required to be included as additions to fixed assets (or property, plant or equipment) reflected in the consolidated balance sheet of Holdings, the Borrowers and the Restricted Subsidiaries.

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

“Capitalized Leases” means all leases that have been or are required to be, in accordance with GAAP or IFRS, as applicable, recorded as capitalized leases; *provided* that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the Capitalized Lease Obligation with respect thereto; provided further that any lease that would be characterized as an operating lease in accordance with GAAP or IFRS, as applicable, as in effect on December 14, 2018 (whether or not such operating lease was in effect on such date), shall continue to be accounted for as an operating lease (and not as a Capitalized Lease) for purposes of this Agreement regardless of any change in GAAP or IFRS, as applicable, after December 14, 2018 that would otherwise require such lease to be recharacterized (on a prospective or retroactive basis or otherwise) as a Capitalized Lease.

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

“Captive Insurance Subsidiary” means any Subsidiary of Holdings that is subject to regulation as an insurance company (or any Subsidiary thereof).

“Cash Collateral Account” means an account held at, and subject to the sole dominion and control of, the Collateral Agent.

“Cash Collateralize” means (a) to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Administrative Agent, the applicable L/C Issuer and the Appropriate Lenders, as collateral for L/C Obligations or obligations of Lenders to fund participations in respect thereof, cash, Cash Equivalents (for this purpose, excluding Cash Equivalents of the type described in clause (a)(ii) of such definition), deposit account or securities account balances, (b) to provide a “backstop” letter of credit having terms, and issued by a financial institution, reasonably acceptable to the Administrative Agent and the applicable L/C Issuer, (c) for the purposes of the definition of Disqualified Equity Interests in this Section 1.01, the preamble paragraphs to Articles VI and VII, and Sections 9.11(a) and 10.13 and the Collateral Documents, to provide evidence that a Letter of Credit has been “grandfathered” into a future credit facility in a manner reasonably acceptable to the applicable L/C Issuer or (d) if the applicable L/C Issuer benefiting from such collateral shall agree in its reasonable discretion, to provide other credit support, in each case, in an amount equal to 100% of such obligations and pursuant to documentation in form and substance reasonably satisfactory to (i) the Administrative Agent (on behalf of the Appropriate Lenders) and (ii) the L/C Issuer(s). “Cash Collateral,” “Cash Collateralizing,” “Cash Collateralized” and “Cash Collateralization” shall have the meanings correlative thereto and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” means any of the following types of Investments, to the extent owned by Holdings, the Borrowers or any other Restricted Subsidiary:

(a) (i) Dollars and (ii) any foreign currency held by Holdings, the Borrowers or any of the other Restricted Subsidiaries in the ordinary course of business;

(b) readily marketable direct obligations issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality thereof the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition;

(c) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, demand deposits, bankers’ acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any domestic or foreign commercial bank having capital and surplus of not less than \$500,000,000 in the case of U.S. banks (or the Dollar equivalent as of the date of determination in the case of any non-U.S. banks);

(d) repurchase obligations for underlying securities of the types described in clauses (b) and (c) above or clause (f) below entered into with any financial institution meeting the qualifications specified in clause (c) above;

(e) commercial paper rated at least P-2 by Moody’s or at least A-2 by S&P (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and in each case maturing within 12 months after the date of creation thereof;

(f) marketable short-term money market and similar highly liquid funds having a rating of at least P-2 or A-2 from either Moody’s or S&P, respectively (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

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

(h) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody’s (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(i) investment funds investing substantially all of their assets in securities of the types described in clauses (a) through (h) above; and

(j) solely with respect to any Captive Insurance Subsidiary, any investment that a Captive Insurance Subsidiary is not prohibited to make in accordance with applicable Laws.

In the case of Investments made in a country outside the United States in the ordinary course of business, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (j) above of obligors, which Investments or obligors (or the parents of such obligors), if required under such clauses, have the ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments utilized by Holdings, the Borrowers or any of the other Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments described in clauses (a) through (j) and in this paragraph.

“Cash Management Bank” means (i) a counterparty provider selected by Borrower that has executed and delivered to the Collateral Agent an accession agreement or (ii) any Person that is an Agent, a Lender, a Lead Arranger or an Affiliate of any of the foregoing at the time it initially provides any Cash Management Services pursuant to a Secured Cash Management Agreement (or, in the case of Secured Cash Management Agreements existing on the Closing Date, on the Closing Date), whether or not such Person subsequently ceases to be an Agent, a Lender, a Lead Arranger or an Affiliate of any of the foregoing.

“Cash Management Obligations” means obligations owed by Holdings, the Borrowers or any other Restricted Subsidiary in respect of or in connection with any Cash Management Services.

“Cash Management Services” means any agreement or arrangement to provide cash management services, including treasury, depository, overdraft, credit card processing, credit or debit card, purchase card, electronic funds transfer, ACH transactions and other cash management arrangements.

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

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

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty (excluding the taking effect after the date of this Agreement of a law, rule, regulation or treaty adopted prior to the date of this Agreement), (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided*, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203, H.R. 4173) and all requests, rules, guidelines, requirements or directives thereunder or issued in connection therewith or in implementation thereof and (y) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted, issued or implemented.

“Change of Control” means (i) the failure of the Public Parent, directly or indirectly through wholly-owned subsidiaries, to beneficially own and control all of the Equity Interests of the Lead Borrower or (ii) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group, in each case, other than the Permitted Holders (directly or indirectly, including through one or more holding companies), of Equity Interests representing 40% or more of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Public Parent and the percentage of the aggregate ordinary voting power so held is greater than the percentage of the aggregate ordinary voting power represented by the Equity Interests in the Public Parent held by the Permitted Holders, unless the Permitted Holders (directly or indirectly, including through one or more holding companies) otherwise have the right (pursuant to contract, proxy or otherwise), directly or indirectly, to designate, nominate or appoint (and do so designate, nominate or appoint) a majority of the Board of Directors of Holdings or the Public Parent.

For purposes of this definition, (i) "beneficial ownership" shall be as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act, (ii) the phrase Person or "group" is within the meaning of Section 13(d) or 14(d) of the Exchange Act, but excluding any employee benefit plan of such Person or "group" and its subsidiaries and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan, and (iii) if any Person or "group" includes one or more Permitted Holders, the issued and outstanding Equity Interests of Holdings or the Lead Borrower, as applicable, directly or indirectly owned by the Permitted Holders that are part of such Person or "group" shall not be treated as being owned by such Person or "group" for purposes of determining whether this definition is triggered.

"**Claims**" has the meaning specified in the definition of "**Environmental Claim**."

"**Class**" when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Initial Term Loans, Revolving Credit Loans described in clause (i) of the definition thereof, New Term Loans, New Revolving Credit Loans, Refinancing Term Loans, Refinancing Revolving Credit Loans, Extended Term Loans, Extended Revolving Credit Loans or Replacement Term Loans, (b) any Commitment, refers to whether such Commitment is a Commitment in respect of Initial Term Commitments, Revolving Credit Commitments (including Non-Extended Revolving Credit Commitments) or a Commitment in respect of a Class of Loans to be made pursuant to an Incremental Amendment, a Refinancing Amendment, an Extension Amendment, Corrective Loan Extension Amendment or an amendment to this Agreement in respect of Replacement Term Loans and (c) any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments and includes, as a separate Class, Term Lenders with Initial Term Loans, Revolving Credit Lenders with Revolving Credit Commitments (including Non-Extended Revolving Credit Commitments), Refinancing Term Lenders with Refinancing Term Commitments or Refinancing Term Loans, Refinancing Revolving Credit Lenders with Refinancing Revolving Credit Commitments or Refinancing Revolving Credit Loans, Extending Term Lenders for a given Term Loan Extension Series of Extended Term Commitments or Extended Term Loans, Extending Revolving Credit Lenders for a given Revolving Credit Loan Extension Series of Extended Revolving Credit Commitments or Extended Revolving Credit Loans, New Term Lenders with New Term Commitments or New Term Loans, New Revolving Credit Lenders with New Revolving Credit Commitments or New Revolving Credit Loans or Lenders with Replacement Term Loans. Initial Term Loans, Revolving Credit Loans (and the Revolving Credit Commitments in respect thereof) described in clause (i) of the definition thereof, Refinancing Term Commitments, Refinancing Term Loans, Refinancing Revolving Credit Commitments, Refinancing Revolving Credit Loans, New Term Commitments, New Term Loans, New Revolving Credit Commitments, New Revolving Credit Loans, Extended Term Commitments, Extended Term Loans, Extended Revolving Credit Commitments, Extended Revolving Credit Loans, commitments in respect of Replacement Term Loans and Replacement Term Loans that have different terms and conditions shall be construed to be in different Classes.

"**Closing Date**" means the first date on which all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

"**Closing Date IPO**" has the meaning specified in the preliminary statements to this Agreement.

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

"**Co-Investor**" means one or more (x) current or prospective limited partners of any funds, investment vehicles or partnerships managed, advised or sub-advised by Summit Partners or any of their respective Affiliates (other than any portfolio operating company of any of the foregoing) or (y) strategic partners of Summit Partners or any Co-Investor identified in clause (x) of this definition that acquire, directly or indirectly, Equity Interests in Holdings through an issuance by Holdings (or any direct or indirect parent thereof) or a transfer, sale, assignment or disposition by Summit Partners, in each case under this clause (y), within twelve months following the Closing Date.

"**Collateral**" means all the "**Collateral**" (or equivalent term) as defined in any Collateral Document.

"**Collateral Agent**" has the meaning specified in the introductory paragraph to this Agreement.

"**Collateral and Guarantee Requirement**" means, at any time, the requirement that:

(a) the Collateral Agent shall have received each Collateral Document required to be delivered (i) on the Closing Date pursuant to Section 4.01(a) (iii) or (ii) on such other dates as required pursuant to Section 6.11 or Section 6.13, duly executed by each Loan Party party thereto;

(b) all Obligations (other than, with respect to any Guarantor, any Excluded Swap Obligations of such Guarantor) shall have been unconditionally guaranteed by Holdings and each Restricted Subsidiary of Holdings (other than the Borrowers) that is a Domestic Subsidiary or an Australian Subsidiary (except any Excluded Subsidiary, other than any Excluded Subsidiary pursuant to clause (d) of the definition of “**Excluded Subsidiary**” that was not an Excluded Subsidiary pursuant to such clause (d) on the Closing Date or the date that such Domestic Subsidiary became a Subsidiary Guarantor, in which case the exception to the aforementioned requirement to provide such unconditional guarantee pursuant to this parenthetical shall not apply) (each, a “**Guarantor**”) and any Restricted Subsidiary that Guarantees any Indebtedness incurred by Holdings, the Borrowers or any other Restricted Subsidiary pursuant to (i) any Junior Financing or (ii) any Incremental Equivalent Debt or Refinancing Equivalent Debt (or, in the case of each of the preceding clauses (i) and (ii), any Permitted Refinancing thereof) shall be a Guarantor hereunder;

(c) the Obligations of each Loan Party shall have been secured by a first-priority security interest (subject to non-consensual Liens permitted by Section 7.01 and other Liens permitted pursuant to Sections 7.01(i), 7.01(m)(ii), (n), (o), (y), (aa), (dd) (but solely in the case of Liens permitted by clause (i), (o), or (ii) of Section 7.01), (ee), (hh) and (ii) in (i) all Equity Interests of the Borrowers and each Restricted Subsidiary that is a wholly-owned Subsidiary (other than a Subsidiary (x) that is an Immaterial Subsidiary, a not-for-profit organization, a Captive Insurance Subsidiary or a special purpose entity formed and used solely for a securitization transaction or a similar special purpose, or (y) with respect to the Obligations of a Loan Party that is a U.S. Person, any Subsidiary described in the following clause (ii)(A) or (ii)(B)) directly owned by any Borrower or any Guarantor; *provided that*, notwithstanding the foregoing, this clause (c)(i) shall not apply to any Equity Interests of the Borrowers owned by Excelerate, L.P., CK Holdings, LP or P&P Holdings, LP until Excelerate, L.P., CK Holdings, LP and P&P Holdings, LP are dissolved after the Closing Date and such Borrowers become wholly-owned by a Loan Party), and (ii) with respect to the Obligations of a Loan Party that is a U.S. Person, 65% of the issued and outstanding Equity Interests of the total issued and outstanding Equity Interests that are entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) and 100% of the non-voting Equity Interests of (A) each Restricted Subsidiary that is a wholly owned Foreign Subsidiary and is directly owned by any Borrower or any Guarantor and (B) each Restricted Subsidiary that is a FSHCO directly owned by any Borrower or any Guarantor (in the case of clauses (A) and (B), other than a Subsidiary that is an Immaterial Subsidiary, a not-for-profit organization, a Captive Insurance Subsidiary or a special purpose entity formed and used solely for a securitization transaction or a similar special purpose);

(d) except to the extent otherwise provided hereunder or under any Collateral Document, including subject to Liens permitted by Section 7.01 or under any Collateral Document, the Obligations shall have been secured by a valid and perfected security interest in substantially all tangible and intangible assets of each Loan Party (including accounts receivable, inventory, equipment, investment property, deposit accounts, contract rights, registered intellectual property (including applications for registered intellectual property, but excluding any intent-to-use application for registration of a trademark or service mark filed pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051, prior to the filing of a “**Statement of Use**” pursuant to Section 1(d), or an “**Amendment to Allege Use**” pursuant to Section 1(c), of the Lanham Act, to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of such application under applicable federal Laws)), other general intangibles, mortgages on Material Real Property and proceeds of the foregoing), in each case, with the priority required by the Collateral Documents (to the extent such security interest may be perfected by delivering certificated securities and Material Debt Instruments, filing any Mortgages in the appropriate filing office of the county where the respective mortgaged property is located, filing financing statements under the Uniform Commercial Code and/or the PPSA, making any necessary filings with the United States Patent and Trademark Office or United States Copyright Office or any equivalent foreign national registry); and

(e) the Collateral Agent shall have received counterparts of a Mortgage and other documentation required to be delivered, with respect to each Material Real Property, if any, pursuant to Sections 6.11 and 6.13.

The foregoing definition shall not require, and the Loan Documents shall not contain any requirements as to, the creation or perfection of pledges of or security interests in, Mortgages on, or the obtaining of title insurance, surveys, abstracts or appraisals or taking other actions with respect to, any Excluded Assets. The Collateral Agent may grant extensions of time for the perfection of security interests in or the delivery of the Mortgages and the obtaining of title insurance, surveys, abstracts and appraisals with respect to particular assets and the delivery of assets (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Lead Borrower, that perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

Notwithstanding anything to the contrary, there shall be no requirement for (and no Default under the Loan Documents shall arise out of the lack of) (A) actions in, or required by the Laws of, any jurisdiction other than Australia (or any state or territory thereof) or the United States in order to create, perfect or maintain any security interests in any assets (including, without limitation, any intellectual property registered in any jurisdiction other than Australia or the United States and all real property located outside the United States or Australia) (it being understood that there shall be no security agreements, pledge agreements or similar security documents governed by the Laws of any jurisdiction other than Australia or the United States) and (B) actions required to be taken to perfect by “control” with respect to any Collateral (other than delivery of (x) certificated securities required to be pledged in accordance with clause (c) of this definition and (y) Material Debt Instruments, in each case, in accordance with the requirements under the Security Agreement and the other Loan Documents and subject to [Section 6.16](#)).

In addition, the Borrowers may cause any Restricted Subsidiary that is not otherwise required to be a Guarantor to Guarantee the Obligations and otherwise satisfy the Collateral and Guarantee Requirement, in which case such Restricted Subsidiary shall be treated as a Guarantor under this Agreement and every other Loan Document for all purposes at all times thereafter.

“Collateral Documents” means, collectively, the Security Agreement, the Intellectual Property Security Agreements, the Mortgages, each of the mortgages, debentures, charges, collateral assignments, security agreements, pledge agreements or other similar agreements delivered to the Agents and the Lenders pursuant to this Agreement and the Guaranty and each of the other agreements, instruments or documents executed by a Loan Party that creates or purports to create a Lien or Guarantee in favor of the Collateral Agent or the Administrative Agent, as applicable, for the benefit of the Secured Parties.

“Commitment” means a Term Commitment or a Revolving Credit Commitment, as the context may require.

“Commitment Letter” means the Commitment Letter, dated August 12, 2021, among KeyBank, the Lead Arrangers, Wells Fargo Bank, National Association, Bank of America, N.A., Credit Suisse AG, Cayman Islands Branch, Jefferies Finance LLC and the Lead Borrower.

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

“Communication” has the meaning specified in [Section 10.12\(a\)](#).

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

“Compliance Certificate” means a certificate substantially in the form of Exhibit C and which certificate shall in any event be a certificate of a Responsible Officer of the Lead Borrower (a) certifying as to whether a Default has occurred and is continuing and, if applicable, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (b) setting forth reasonably detailed calculations, in the case of financial statements delivered under [Section 6.01\(a\)](#), beginning with the financial statements for the fiscal year of Holdings ending December 31, 2022, of Excess Cash Flow for such fiscal year, (c) in the case of financial statements delivered under [Section 6.01\(a\)](#), setting forth a reasonably detailed calculation of the Net Cash Proceeds received during the applicable period by or on behalf of, Holdings the Borrowers or any of the other Restricted Subsidiaries in respect of any Disposition subject to prepayment pursuant to [Section 2.05\(b\)\(ii\)\(A\)](#) and the portion of such Net Cash Proceeds that has been invested or is intended to be reinvested in accordance with Section 2.05(b)(ii)(B) and (d) setting forth a reasonably detailed calculation, in the case of financial statements delivered under [Section 6.01\(a\)](#) or [\(b\)](#) (with respect to financial statements delivered under [Section 6.01\(b\)](#), only for the first three fiscal quarters of each fiscal year) with respect to any Test Period, of the Total Net First Lien Leverage Ratio, the Total Net Leverage Ratio and the Fixed Charge Coverage Ratio.

“Consolidated Current Assets” means, as at any date of determination, the total assets of Holdings, the Borrowers and the other Restricted Subsidiaries on a consolidated basis that may properly be classified as current assets in conformity with GAAP or IFRS, as applicable, excluding cash and Cash Equivalents, amounts related to current or deferred taxes based on income or profits, assets held for sale, loans (permitted) to third parties, pension assets, deferred bank fees and derivative financial instruments.

“Consolidated Current Liabilities” means, as at any date of determination, the total liabilities of Holdings, the Borrowers and the other Restricted Subsidiaries on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP or IFRS, as applicable, but excluding (a) the current portion of any Funded Debt, (b) the current portion of interest, (c) accruals for current or deferred taxes based on income or profits, (d) accruals of any costs or expenses related to restructuring reserves or severance, (e) revolving loans, swing line loans and letter of credit obligations under the Revolving Credit Facility or any other revolving credit facility, (f) the current portion of any Capitalized Lease Obligation, (g) deferred revenue, (h) liabilities in respect of unpaid earn-outs or other similar acquisition related liabilities, (i) the current portion of any other long-term liabilities, and, furthermore, excluding the effects of adjustments pursuant to GAAP or IFRS, as applicable, resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transaction or any consummated acquisition and (j) Non-Cash Compensation Liabilities.

“Consolidated Depreciation and Amortization Expense” means, with respect to any Person for any period, the total amount of depreciation and amortization expense, including amortization or write-off of intangibles and non-cash organization costs and of deferred financing fees or costs and Capitalized Software Expenditures, of such Person, on a consolidated basis and otherwise determined in accordance with GAAP or IFRS, as applicable, and the amortization of OID resulting from the issuance of Indebtedness at less than par, and any write down of assets or asset value carried on the balance sheet.

“Consolidated EBITDA” means, with respect to Holdings, the Borrowers and the other Restricted Subsidiaries for any period, the Consolidated Net Income of such Person for such period:

(a) increased by (without duplication, and as determined in accordance with IFRS and GAAP to the extent applicable):

(i) (A) provision for taxes based on income or profits or capital, plus state, provincial, franchise, property or similar taxes and foreign withholding taxes and foreign unreimbursed value added taxes, of such Person for such period (including, in each case, penalties and interest related to such taxes or arising from tax examinations) deducted in computing Consolidated Net Income and (B) amounts paid to Holdings or any direct or indirect parent of Holdings in respect of taxes in accordance with Section 7.06(g), solely to the extent such amounts were deducted in computing Consolidated Net Income; plus

(ii) (A) total interest expense of such Person and, to the extent not reflected in such total interest expense, any losses on hedging obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, and (B) bank fees and costs owed with respect to letters of credit, bankers acceptances and surety bonds, in each case under this clause (B), in connection with financing activities and, in each case under clauses (A) and (B), to the extent the same were deducted in computing Consolidated Net Income; plus

(iii) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent the same were deducted in computing Consolidated Net Income; plus

(iv) any (A) Transaction Expenses and (B) reasonable fees, costs, expenses or charges incurred in connection with (x) any issuance or offering of Equity Interests (including any IPO), Investment, joint venture, acquisition (including any one-time costs incurred in connection with any Permitted Acquisition or any other Investment permitted hereunder), non-ordinary course Disposition, recapitalization or the issuance, incurrence, redemption, exchange or repayment of Indebtedness (including, with respect to Indebtedness, a refinancing thereof), including any costs and expenses relating to any registration statement, or registered exchange offer, in respect of any Indebtedness permitted hereunder, (y) any amendment, waiver, consent or modification to any documentation governing the terms of any transaction described in the immediately

preceding subclause (x) or (z) any amendment, waiver, consent or modification to any Loan Document or any other document governing any Indebtedness, in each case under subclauses (x), (y) and (z), whether or not such transaction or amendment, waiver, consent or modification is successful, made or entered into by the terms of this Agreement, in each case, deducted in computing Consolidated Net Income; plus

(v) any charges, losses or expenses related to signing, retention, relocation, recruiting or completion bonuses or recruiting costs, severance costs, transition costs, curtailments or modifications to pension and post-retirement employee benefit plans (including any settlement of pension liabilities), pre-opening, opening, closing and consolidation costs and expenses with respect to any facilities, facility start-up costs, costs of strategic initiatives, costs and expenses relating to implementation of operational and reporting systems and technology initiatives, costs incurred in connection with product and intellectual property development and new systems design, costs of information technology and similar upgrades, project start-up costs, integration and systems establishment costs, business optimization expenses or costs (including costs and expenses relating to intellectual property restructurings) and cash restructuring charges, expenses and reserves, in each case, to the extent the same were deducted in computing Consolidated Net Income; plus

(vi) (A) consulting and similar fees, expenses and indemnities payable to Summit Partners or any Co-Investor and their respective Affiliates to the extent payment thereof is permitted by this Agreement and (B) compensation and expense reimbursements payable to directors and officers, any indemnity payments, and any expenses for director and officer insurance premiums to the extent such payment is permitted by this Agreement, in each case, to the extent the same were deducted in computing Consolidated Net Income; plus

(vii) any other non-cash charges, expenses, losses or items, including any write offs or write downs, reducing such Consolidated Net Income for such period (provided that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, (1) the Lead Borrower may determine not to add back such non-cash charge in the current period and (2) to the extent the Lead Borrower does decide to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period); plus

(viii) the amount of any minority interest expense or non-controlling interest consisting of Subsidiary income attributable to minority equity interests of third parties in any non-wholly owned Subsidiary deducted in calculating Consolidated Net Income; plus

(ix) without duplication of amounts added back pursuant to clause (vi) above, the amount of customary fees, reasonable out-of-pocket costs, indemnities and expenses paid or accrued in such period to any Permitted Holder or any of their Affiliates to the extent permitted under Section 7.08 and deducted in such period in computing Consolidated Net Income; plus

(x) the amount of “run rate” cost savings, operating expense reductions and synergies related to (i) the Transaction or (ii) any acquisitions consummated prior to the Closing Date (without duplication of any amounts added back pursuant to clause (xi) below or Section 1.08(c) in connection with a Specified Transaction), in each case projected by the Lead Borrower in good faith to result from actions taken, with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Borrower) within eighteen (18) months after the Closing Date (which “run rate” cost savings, operating expense reductions and synergies shall be calculated on a pro forma basis as though such “run rate” cost savings, operating expense reductions and synergies had been realized on the first day of the period for which Consolidated EBITDA is being determined), net of the amount of actual benefits realized during such period; *provided* that such “run rate” cost savings, operating expense reductions and synergies are reasonably identifiable (in the good faith determination of the Lead Borrower); plus

(xi) the amount of “run rate” cost savings, operating expense reductions, restructuring charges and expenses, and synergies related to any restructurings, cost savings initiatives and other initiatives occurring after the Closing Date (without duplication of any amounts added back pursuant to clause (x) above or Section 1.08(c) in connection with a Specified Transaction) and projected by the Lead Borrower in good faith to result from actions which have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of the Lead Borrower) within eighteen (18) months after such transaction or initiative is consummated (which “run rate” cost savings, operating expense reductions and synergies shall be calculated on a pro forma basis as though such “run rate” cost savings, operating expense reductions and synergies had been realized on the first day of the period for which Consolidated EBITDA is being determined), net of the amount of actual benefits realized during such period; *provided* that such “run rate” cost savings, operating expense reductions and synergies are reasonably identifiable (in the good faith determination of the Lead Borrower); and *provided further*, that such “run rate” cost savings, operating expense reductions, restructuring charges and expenses and synergies added back pursuant to this clause (xi) in any Test Period shall, when aggregated with the amount of any increase for such period in Consolidated EBITDA as a result of any fees, losses, costs, charges, expenses or payments pursuant to clause (xviii) below and Section 1.08(c), in each case, solely to the extent such items are not otherwise permitted to be reflected on pro forma financial statements prepared in compliance with Regulation S-X, not exceed an aggregate amount equal to 25% (or such greater amount approved in writing by the Required Lenders) of Consolidated EBITDA, calculated after giving effect thereto, for such Test Period determined on a Pro Forma Basis; plus

(xii) any costs or expenses incurred by the Borrowers or any other Restricted Subsidiary pursuant to any management equity or equity-based plan or any other management or employee benefit plan or agreement or any stock subscription or stockholders agreement, to the extent that such costs or expenses are funded with Net Cash Proceeds contributed to the capital of the Borrowers by Persons other than Holdings, the Borrowers or any other Restricted Subsidiary or Net Cash Proceeds from Permitted Equity Issuances, in each case, (A) solely to the extent that such cash proceeds are excluded from the calculation of the Available Amount and have not been used as an Excluded Contribution and do not constitute a Specified Equity Contribution and (B) to the extent the same were deducted in computing Consolidated Net Income; plus

(xiii) Specified Legal Expenses, in each case, to the extent the same were deducted in computing Consolidated Net Income; plus

(xiv) accruals and reserves that are established or adjusted (x) within 12 months after the Closing Date and that are so required to be established or adjusted in accordance with GAAP or IFRS, as applicable, or (y) after the closing of any acquisition that are so required as a result of such acquisition in accordance with GAAP or IFRS, as applicable, or changes as a result of the adoption or modification of accounting policies, whether effected through a cumulative effect adjustment, restatement or a retroactive application, in each case, to the extent the same were deducted in computing Consolidated Net Income; plus

(xv) net losses with respect to investments in any person (other than a Subsidiary of Holdings) during such period to the extent that none of Holdings, the Borrowers or any of the other Subsidiaries contributes cash or Cash Equivalents or any other property to such person in respect of such loss during such period, in each case, to the extent the same were deducted in computing Consolidated Net Income; plus

(xvi) any fees, costs, expenses or charges incurred in connection with the preparation for and consummation of an IPO; plus

(xvii) adjustments and add-backs specifically identified in the financial model delivered to the Lead Arrangers on May 25, 2021; plus

(xviii) (x) start-up fees, losses, costs, charges, expenses or payments incurred in the first 12 months following the commitment to open a new facility with respect to the prospecting, opening, and organizing of any new facility (including, but not limited to, the cost of feasibility studies, staff-training and recruiting costs, advertising and marketing costs, rental or mortgage costs, compensation costs, insurance costs, travel costs and other employee related costs and expenses for employees engaged in such start-up activities) and (y) operating losses of new facilities (including, but not limited to, allocation of corporate overhead expenses) incurred in the first 12 months following the opening of such new facility; *provided* that

such fees, losses, costs, charges, expenses or payments added back pursuant to this clause (xviii) in any Test Period shall, when aggregated with the amount of any increase for such period in Consolidated EBITDA as a result of any “run rate” cost savings, operating expense reductions, restructuring charges and expenses and synergies pursuant to clause (xi) above and Section 1.08(c), in each case, solely to the extent such items are not otherwise permitted to be reflected on pro forma financial statements prepared in compliance with Regulation S-X, not exceed an aggregate amount equal to 25% (or such greater amount approved in writing by the Required Lenders) of Consolidated EBITDA, calculated after giving effect thereto, for such Test Period determined on a Pro Forma Basis; plus

(xix) earn-out obligations incurred in connection with any Permitted Acquisition and paid or accrued during the applicable period and on similar acquisitions completed prior to the Closing Date; plus

(xx) adjustments calculated in accordance with Regulation S-X; and

(b) decreased by (without duplication, and as determined in accordance with IFRS or GAAP to the extent applicable) any non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any gains that represent the reversal of any accrual of, or cash reserve for, anticipated cash charges in any prior period (other than such cash charges that have been added back to Consolidated Net Income in calculating Consolidated EBITDA in accordance with this definition).

Notwithstanding anything to the contrary contained herein, for purposes of determining Consolidated EBITDA under this Agreement for any Test Period that includes any of the fiscal quarters ended September 30, 2020, December 31, 2020, March 31, 2021 and June 30, 2021, Consolidated EBITDA for such fiscal quarters shall be \$27,583,000, \$21,192,000, \$13,497,000 and \$18,682,000, respectively, in each case, as may be subject to add-backs and adjustments (without duplication) pursuant to Section 1.08(c) and clauses (a)(x) and (a)(xi) above for the applicable Test Period. For the avoidance of doubt, Consolidated EBITDA shall be calculated, including pro forma adjustments, in accordance with Section 1.08.

“Consolidated First Lien Net Debt” means, as of any date of determination, (a) Consolidated Total Debt of Holdings, the Borrowers and the other Restricted Subsidiaries that is secured by a first priority Lien on any asset or property of Holdings, the Borrowers or any other Restricted Subsidiary minus (b) the aggregate amount of (i) cash and Cash Equivalents of Holdings, the Borrowers and the other Restricted Subsidiaries as of such date that is not Restricted and (ii) cash and Cash Equivalents of Holdings, the Borrowers and the other Restricted Subsidiaries as of such date that is Restricted in favor of the Administrative Agent for the benefit of the Lenders; *provided* that the amount of any cash and Cash Equivalents so netted shall not exceed \$20,000,000; *provided further* that in calculating the Total Net First Lien Leverage Ratio for the purposes of determining the Available Incremental Amount on any date of determination in respect of any New Term Loans, New Revolving Credit Commitments or Incremental Equivalent Debt, in each case incurred as such, (i) the proceeds thereof incurred on such date shall be excluded from the immediately preceding clause (b) and (ii) in connection with the incurrence of a New Revolving Credit Commitment on such date, the full amount of such New Revolving Credit Commitment shall be deemed to be Indebtedness outstanding on such date; provided further that to the extent proceeds of any New Term Loans, New Revolving Credit Commitments or Incremental Equivalent Debt are to be used to repay Indebtedness (including by defeasance, discharge, escrow or similar arrangements), the Borrowers shall be permitted to give Pro Forma Effect to such repayment of Indebtedness.

“Consolidated Group” means a Consolidated Group or a MEC Group, each as defined in section 995-1 of the Australian Tax Act.

“Consolidated Net Debt” means, as of any date of determination, (a) Consolidated Total Debt of Holdings, the Borrowers and the other Restricted Subsidiaries minus (b) the aggregate amount of (i) cash and Cash Equivalents of Holdings, the Borrowers and the other Restricted Subsidiaries as of such date that is not Restricted and (ii) cash and Cash Equivalents of Holdings, the Borrowers and the other Restricted Subsidiaries as of such date that is Restricted in favor of the Administrative Agent for the benefit of the Lenders; *provided* that the amount of any cash and Cash Equivalents so netted shall not exceed \$20,000,000; *provided further* that in calculating the Total Net Leverage Ratio for the purposes of determining the Available Incremental Amount on any date of determination in respect of any Incremental Equivalent Debt, the proceeds thereof incurred on such date shall be excluded from clause (b); *provided further* that to the extent proceeds of any such Indebtedness are to be used to repay Indebtedness (including by defeasance, discharge, escrow or similar arrangements), the Borrowers shall be permitted to give Pro Forma Effect to such repayment of Indebtedness.

“Consolidated Net Income” means, with respect to Holdings, the Borrowers and the other Restricted Subsidiaries for any period, the aggregate of the Net Income of Holdings, the Borrowers and the other Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP or IFRS, as applicable; *provided, however,* that, without duplication:

(a) any extraordinary, non-recurring or unusual gains or losses, charges or expenses shall be excluded;

(b) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period, whether effected through a cumulative effect adjustment or a retroactive application, in each case in accordance with GAAP or IFRS, as applicable;

- (a) effects of adjustments (including the effects of such adjustments pushed down to Holdings, the Borrowers and the other Restricted Subsidiaries) in such Person’s consolidated financial statements pursuant to GAAP or IFRS, as applicable (including in the property and equipment, software, goodwill, intangible assets, deferred revenue and debt line items thereof), resulting from the application of recapitalization accounting or purchase accounting, as the case may be, in relation to the Transaction or any consummated acquisition or the amortization or write-off of any amounts thereof (including any write-off of in process research and development), net of taxes, shall be excluded;
- (b) any net income (loss) from disposed, abandoned, transferred, closed or discontinued operations (excluding held for sale discontinued operations until actually disposed of) and any gains or losses on disposal of disposed, abandoned, transferred, closed or discontinued operations shall be excluded;
- (c) any net gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions or the sale or other disposition of any Equity Interests of any Person other than in the ordinary course of business, as determined in good faith by the Lead Borrower, shall be excluded;
- (d) the Net Income for such period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded; *provided* that Consolidated Net Income of the Borrowers shall be increased by the aggregate amount of dividends or distributions or other payments that are actually paid in cash (or to the extent converted into cash) by such Person or Unrestricted Subsidiary to any Borrower or any other Restricted Subsidiary in respect of such period (subject in the case of dividends, distributions or other payments made to a Restricted Subsidiary to the limitations contained in clause (g) below);
- (e) solely for the purpose of determining the Available Amount for application pursuant to Section 7.06(c), the Net Income for such period of any Restricted Subsidiary (other than any Subsidiary Guarantor) shall be excluded to the extent the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule, or governmental regulation applicable to that Restricted Subsidiary or its equity holders, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived; provided that Consolidated Net Income of the Borrowers will be increased by the amount of dividends or other distributions or other payments actually paid in cash (or to the extent converted into cash) to any Borrower or any other Restricted Subsidiary thereof that is a Subsidiary Guarantor in respect of such period, to the extent not already included therein;

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- (f) (i) any net gain or loss (after any offset) resulting in such period from obligations in respect of Swap Contracts and the application of Accounting Standards Codification 815 (Derivatives and Hedging) or any ineffectiveness recognized in earnings related to qualifying hedge transactions or the fair value of changes therein recognized in earnings for derivatives that do not qualify as hedge transactions, in each case, in respect of Swap Contracts, (ii) any net gain or loss resulting in such period from currency translation gains or losses related to currency re-measurements of Indebtedness (including the net loss or gain (A) resulting from Swap Contracts for currency exchange risk and (B) resulting from intercompany Indebtedness) and all other foreign currency translation gains or losses, and (iii) any net income (loss) for such period attributable to the early extinguishment or conversion of (A) Indebtedness, (B) obligations under any Swap Contracts or (C) other derivative instruments and all deferred financing costs written off or amortized and premiums paid or other expenses incurred directly in connection therewith, shall be excluded;
 - (g) any goodwill or impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case pursuant to GAAP or IFRS, as applicable, the amortization of intangibles arising pursuant to GAAP or IFRS, as applicable, and the amortization of Capitalized Software Expenditures, shall be excluded;
 - (h) any expenses, charges or losses that are covered by indemnification or other reimbursement provisions in connection with any Investment, Permitted Acquisition, acquisitions completed prior to the Closing Date or any sale, conveyance, transfer or other disposition of assets permitted under this Agreement or that are consummated prior to the Closing Date, to the extent actually reimbursed, or, so long as the Lead Borrower has made a determination that a reasonable basis exists for indemnification or reimbursement and only to the extent that such amount is in fact indemnified or reimbursed within 365 days of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so indemnified or reimbursed within such 365 days), shall be excluded;
 - (i) to the extent covered by insurance and actually reimbursed, or, so long as the Lead Borrower has made a determination that a reasonable basis exists that such amount will in fact be reimbursed within 365 days of the date of such determination (with a deduction in the applicable future period for any amount so added back to the extent not so reimbursed within such 365 days), expenses, charges or losses with respect to liability or casualty events or business interruption shall be excluded;
 - (j) any non-cash (for such period and all other periods) compensation charge or expense, including any such charge or expense arising from the grants of equity, equity appreciation or similar rights, or other rights or equity incentive programs shall be excluded, and any cash charges associated with the rollover, acceleration or payout of Equity Interests by, or to, management or other holders, direct or indirect, of Equity Interests of the Borrowers or any of the other Restricted Subsidiaries in connection with the Transaction, shall be excluded;
 - (k) any income (loss) attributable to deferred compensation plans or trusts and any non-cash deemed finance charges in respect of any pension liabilities or other provisions or on the revaluation of any benefit plan obligation shall be excluded;
 - (l) proceeds from any business interruption insurance, to the extent not already included in Consolidated Net Income, shall be included;
 - (m) the amount of any expense to the extent a corresponding amount is received in cash by Holdings, the Borrowers and the other Restricted Subsidiaries from a Person other than Holdings, the Borrowers or any other Restricted Subsidiaries; *provided* such amount received has not been included in determining Consolidated Net Income, shall be excluded (it being understood that if the amounts received in cash under any such agreement in any period exceed the amount of expense in respect of such period, such excess amounts received may be carried forward and applied against expense in future periods);

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- (n) any adjustments resulting from the application of Accounting Standards Codification Topic No. 460 (Guarantees) or any comparable regulation, shall be excluded; and
 - (o) changes in accruals or reserves in respect of earn-out and contingent consideration obligations incurred (including adjustments thereof and purchase price adjustments) in connection with the Transaction, any Permitted Acquisition, other permitted Investment or any acquisition occurring prior to the Closing Date shall be excluded.

“Consolidated Secured Net Debt” means, as of any date of determination, (a) Consolidated Total Debt of Holdings, the Borrowers and the other Restricted Subsidiaries that is secured by a Lien on any asset or property of Holdings, the Borrowers or any other Restricted Subsidiary minus (b) the aggregate amount of (i) cash and Cash Equivalents of Holdings, the Borrowers and the other Restricted Subsidiaries as of such date that is not Restricted and (ii) cash and Cash Equivalents of Holdings, the Borrowers and the other Restricted Subsidiaries as of such date that is Restricted in favor of the Administrative Agent for the benefit of the Lenders; *provided* that the amount of any cash and Cash Equivalents so netted shall not exceed \$20,000,000; *provided further* that in calculating the Total Net Secured Leverage Ratio for the purposes of determining the Available Incremental Amount on any date of determination in respect of any New Term Loans, New Revolving Credit Commitments or Incremental Equivalent Debt, in each case incurred as such, (i) the proceeds thereof incurred on such date shall be excluded from the immediately preceding clause (b) and (ii) in connection with the incurrence of a New Revolving Credit Commitment on such date, the full amount of such New Revolving Credit Commitment shall be deemed to be Indebtedness outstanding on such date; *provided further* that to the extent proceeds of any New Term Loans, New Revolving Credit Commitments or Incremental Equivalent Debt are to be used to repay Indebtedness (including by defeasance, discharge, escrow or similar arrangements), the Borrowers shall be permitted to give Pro Forma Effect to such repayment of Indebtedness.

“Consolidated Total Debt” means, as of any date of determination, the aggregate principal amount of Indebtedness of Holdings, the Borrowers and the other Restricted Subsidiaries outstanding on such date, determined on a consolidated basis in accordance with GAAP or IFRS, as applicable (but excluding the effects of any discounting of Indebtedness resulting from the application of recapitalization accounting or purchase accounting in connection with the Transaction, any Permitted Acquisition or any other Investment permitted hereunder, acquisitions completed prior to the Closing Date or for any other purpose), consisting of (i) Indebtedness for borrowed money, (ii) unreimbursed obligations in respect of drawn letters of credit (subject to the proviso below), (iii) Capitalized Lease Obligations, (iv) obligations in respect of purchase money debt, (v) debt obligations evidenced by bonds, debentures, promissory notes, loan agreements or similar instruments, (vi) unpaid earnouts to the extent then due and owing and (vii) guarantees of any of the types of Indebtedness specified in the foregoing clauses (i) through (vi); *provided* that Consolidated Total Debt shall not include Indebtedness in respect of (i) any Letter of Credit or any other letter of credit, except to the extent of unreimbursed L/C Obligations or obligations in respect of any such drawn other letters of credit (provided that any unreimbursed L/C Obligations or unreimbursed obligations in respect of any such drawn letters of credit shall not be included as Consolidated Total Debt until three (3) Business Days after such amount is drawn (it being understood that any borrowing, whether automatic or otherwise, to fund such reimbursement shall be included)) and (ii) obligations under Swap Contracts.

“Consolidated Working Capital” means, as at any date of determination, the excess of Consolidated Current Assets over Consolidated Current Liabilities; provided that Consolidated Working Capital shall be calculated without giving effect to (w) recapitalization or purchase accounting, (x) any assets or liabilities acquired, assumed, sold or transferred in any acquisition or Disposition pursuant to [Section 7.05\(j\)](#), (y) changes as a result of the reclassification of items from short-term to long-term and vice versa or (z) changes to Consolidated Working Capital resulting from non-cash charges and credits to Consolidated Current Assets and Consolidated Current Liabilities (including, without limitation, derivatives and deferred income tax).

“Contract Consideration” has the meaning specified in the definition of “**Excess Cash Flow**.”

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

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

“Corrective Loan Extension Amendment” means a Corrective Revolving Credit Extension Amendment and/or a Corrective Term Loan Extension Amendment, as the context requires.

“Corrective Revolving Credit Extension Amendment” has the meaning specified in [Section 2.18\(f\)](#).

“Corrective Term Loan Extension Amendment” has the meaning specified in [Section 2.17\(f\)](#).

“Corresponding Tenor” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

“Covered Entity” means any of the following:

- (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Covered Party” has the meaning assigned to it in [Section 10.19](#).

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Cure Expiration Date” has the meaning specified in [Section 8.04\(a\)](#).

“Cure Right” has the meaning specified in [Section 8.04\(a\)](#).

“Daily Simple SOFR” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for syndicated business loans; *provided, that* if the Administrative Agent decides in its reasonable discretion that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent with the consent of the Lead Borrower may establish another convention in its reasonable discretion, which shall be consistent with the then-prevailing market conventions and shall not be adverse to the interests of the Borrowers without the Lead Borrower’s prior written consent.

“Debtor Relief Laws” means the Title 11 of the United States Code (11 U.S.C. §101 et seq.) and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief or insolvency Laws of the United States or other applicable jurisdictions (including, without limitation, corporate insolvency laws under the Australian Corporations Act) from time to time in effect and, in each case, affecting the rights of creditors generally.

“Declined Amounts” has the meaning specified in [Section 2.05\(b\)\(viii\)](#).

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

"Default Rate" means an interest rate equal to (a) the Base Rate plus (b) the Applicable Rate applicable to Base Rate Loans plus (c) 2.0% per annum; *provided* that with respect to a Eurocurrency Rate Loan and a BBSY Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan (giving effect to Section 2.02(c)) plus 2.0% per annum.

"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.

"Defaulting Lender" means, subject to Section 2.19, any Lender that (a) has failed to fund any portion of the Term Loans, Revolving Credit Loans or participations in L/C Obligations or participations in Swing Line Loans required to be funded by it hereunder within two (2) Business Days of the date required to be funded by it hereunder, (b) has otherwise failed to pay over to the Administrative Agent, any L/C Issuer, the Swing Line Lender or any other Lender any other amount required to be paid by it hereunder within two (2) Business Days of the date when due, (c) has notified the Lead Borrower, the Administrative Agent, any L/C Issuer, the Swing Line Lender or any other Lender in writing that it does not intend to comply with its funding obligations hereunder, or generally under other agreements in which it commits to extend credit, or has made a public statement to that effect, (d) has failed, within three (3) Business Days after written request by the Administrative Agent or the Lead Borrower, to confirm in writing to the Administrative Agent and the Lead Borrower, in a manner reasonably satisfactory to the Administrative Agent or the Lead Borrower, as applicable, 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 (d) upon receipt of such written confirmation by the Administrative Agent and the Lead Borrower) or (e) 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 the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (e) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.19) upon delivery of written notice of such determination to the Lead Borrower, each L/C Issuer and each Lender; *provided* that, for the avoidance of doubt, such a determination by the Administrative Agent shall not be required for a Lender to constitute a Defaulting Lender.

"Designated Borrower" has the meaning specified in the introductory paragraph to this Agreement.

"Designated Borrower Request and Assumption Agreement" means the agreement substantially in the form of Exhibit T attached hereto.

"Designated Borrower Requirements" has the meaning specified in Section 2.21(a).

"Designated Borrower Notice" means the notice substantially in the form of Exhibit U attached hereto.

"Designated Non-Cash Consideration" means the fair market value (as determined in good faith by the Lead Borrower) of non-cash consideration received by any Borrower or any other Restricted Subsidiary in connection with a Disposition pursuant to Section 7.05(j) that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer, setting forth the basis of such valuation (which amount will be reduced by the fair market value of the portion of the non-cash consideration converted to cash or Cash Equivalents following the consummation of the applicable Disposition) (including as a result of a subsequent payment, redemption, retirement, sale or other disposition of such Designated Non-Cash Consideration).

"Designated Person" means a Person:

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- (a) listed in the annex to, or otherwise subject to the provisions of, the Executive Order;
 - (b) named as a “**Specially Designated National and Blocked Person**” (“SDN”) on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list (the “**SDN List**”);
 - (c) the Consolidated List maintained by the Australian Department of Foreign Affairs and Trade; or
 - (d) in which an entity on the SDN List has 50% or greater ownership interest or that is otherwise controlled by an SDN.

“**Discount Prepayment Accepting Lender**” has the meaning specified in Section 2.05(a)(v)(B)(1).

“**Discount Range**” has the meaning specified in Section 2.05(a)(v)(C)(1).

“**Discount Range Prepayment Amount**” has the meaning specified in Section 2.05(a)(v)(C)(1).

“**Discount Range Prepayment Notice**” means a written notice of the Borrower Solicitation of Discount Range Prepayment Offers made pursuant to Section 2.05(a)(v)(C) substantially in the form of Exhibit J or any other form approved by the Administrative Agent and the Lead Borrower.

“**Discount Range Prepayment Offer**” means the irrevocable written offer by a Lender, substantially in the form of Exhibit K or any other form approved by the Administrative Agent and the Lead Borrower, submitted in response to an invitation to submit offers following the Auction Agent’s receipt of a Discount Range Prepayment Notice.

“**Discount Range Prepayment Response Date**” has the meaning specified in Section 2.05(a)(v)(C)(1).

“**Discount Range Proration**” has the meaning specified in Section 2.05(a)(v)(C)(2).

“**Discounted Loan Prepayment**” has the meaning specified in Section 2.05(a)(v)(A).

“**Discounted Prepayment Determination Date**” has the meaning specified in Section 2.05(a)(v)(D)(2).

“**Discounted Prepayment Effective Date**” means in the case of the Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offer or Borrower Solicitation of Discounted Prepayment Offer, eight (8) Business Days following the Specified Discount Prepayment Response Date, the Discount Range Prepayment Response Date or the Solicited Discounted Prepayment Response Date, as applicable, in accordance with Section 2.05(a)(v)(B), Section 2.05(a)(v)(C) or Section 2.05(a)(v)(D), respectively, unless a shorter period is agreed to between the applicable Borrower Party and the Auction Agent.

“**Disposition**” or “**Dispose**” means the sale, transfer, license tantamount to a sale, lease or other disposition (including any sale leaseback transaction and any sale or issuance of Equity Interests in any Borrower or any other Restricted Subsidiary) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith; provided that “**Disposition**” and “**Dispose**” shall not include any issuance by Holdings of any of its Equity Interests to another Person or by any Borrower of any of its Equity Interests to Holdings.

“**Disqualified Equity Interests**” means any Equity Interest that, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control, initial public offering or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control, initial public offering 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 (other than (i) unasserted contingent indemnification obligations that by their terms survive and (ii)

Obligations under Secured Hedge Agreements and Secured Cash Management Agreements) and the termination of the Commitments and Cash Collateralization of all outstanding Letters of Credit, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests and other than as a result of a change of control, initial public offering or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control, initial public offering 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 (other than (i) unasserted contingent indemnification obligations that by their terms survive and (ii) Obligations under Secured Hedge Agreements and Secured Cash Management Agreements) and the termination of the Commitments and Cash Collateralization of all outstanding Letters of Credit), in whole or in part or (c) is or becomes automatically or at the option of the holder convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in the case of each of clauses (a), (b) and (c), prior to the date that is ninety-one (91) days after the Latest Maturity Date of the Loans at the time of issuance; *provided* that if such Equity Interests are issued to any current or former employees, consultants, directors, officers or members of management or pursuant to a plan for the benefit of current or former employees, consultants, directors, officers or members of management of Holdings (or any direct or indirect parent thereof), the Borrowers or their respective Subsidiaries or by any such plan to such current or former employees, consultants, directors, officers or members of management, such Equity Interests shall not constitute Disqualified Equity Interests solely because they may be required to be repurchased by Holdings, the Borrowers or their respective Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employees', consultants', directors', officers' or management members' termination, death or disability.

"Disqualified Institution" means (a) Persons that have been specified in writing by the Lead Borrower to the Administrative Agent prior to the Closing Date (as such list may be updated in writing by the Lead Borrower to the Administrative Agent from time to time thereafter with the sole consent of the Administrative Agent), (b) competitors of Holdings or any of its Subsidiaries that are in the same or similar line of business as Holdings or any of its Subsidiaries or any competitors of Holdings or any of its Subsidiaries that have been designated in writing by the Lead Borrower to the Administrative Agent from time to time (all such Persons under this clause (b), "**Competitors**") and (c) any Affiliates of such Persons in clauses (a) or (b) that are either (1) identified in writing by the Lead Borrower from time to time or (2) readily identifiable solely on the basis of such Affiliate's name (other than affiliates that are bona fide debt funds or investment vehicles that are engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of business and which are not managed, sponsored or advised by any Person controlling, controlled by or under common control with a Competitor and for which no personnel involved with the investment by such affiliate makes (or has the right to make or participate with others in making) any investment decisions for a Competitor).

"Distressed Agent-Related Person" has the meaning specified in the definition of "**Agent-Related Distress Event**."

"Dollar" and **"\$"** mean lawful money of the United States.

"Dollar Amount" means, at any time:

- (a) with respect to any Loan, the principal amount thereof then outstanding (or in which such participation is held); and
- (b) with respect to any L/C Obligation (or any risk participation therein), the amount thereof.

"Domestic Subsidiary" means any Subsidiary that is organized under the Laws of the United States, any state thereof or the District of Columbia.

"DQ List" has the meaning specified in Section 10.07(b).

"Early Opt-in Effective Date" means, with respect to any Early Opt-in Election, the sixth (6th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.

“Early Opt-in Election” means the occurrence of:

- (1) a notification by the Administrative Agent to each of the other parties hereto that at least five currently outstanding U.S. dollar-denominated syndicated credit facilities at such time incorporate or adopt (as a result of amendment or as originally executed) either a SOFR-based rate (including SOFR, Term SOFR or any other rate based upon SOFR) as a benchmark rate or an alternate benchmark interest rate to replace USD LIBOR (and such syndicated credit facilities are identified in such notice and are publicly available for review), and
- (2) the joint election by the Administrative Agent and the Lead Borrower to trigger a fallback from USD LIBOR and the provision by the Administrative Agent of written notice of such election to the Lenders.

“ECF Payment Amount” has the meaning specified in Section 2.05(b)(i).

“ECF Percentage” has the meaning specified in Section 2.05(b)(i).

“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 member state 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 delegatee) having responsibility for the resolution of any EEA Financial Institution.

“Electronic Transmission” means each document, instruction, authorization, file, information and any other communication transmitted, posted or otherwise made or communicated by e-mail or E-Fax, or otherwise to or from an E-System.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Sections 10.07(b)(iii) and (iv) (subject to such consents, if any, as may be required under Section 10.07(b)(iii)) and is not excluded as an assignee pursuant to Section 10.07(b)(v); provided that, in any event, Eligible Assignees shall not include (x) any natural person, (y) any Disqualified Institution unless consented to in writing by the Lead Borrower in its sole discretion (which consent shall be required regardless of whether a Default or Event of Default shall be continuing), or (z) any Defaulting Lender or any Affiliate thereof.

“Employee Benefit Plan” means an “employee benefit plan” within the meaning of Section 3(3) of ERISA which the Borrowers establish for the benefit of their employees or for which the Borrowers have liability to make a contribution, including as the result of being an ERISA Affiliate, other than a Multiemployer Plan.

“Environmental Claim” means any administrative, regulatory or judicial action, suits, demand letter, claim, lien, notice of noncompliance or violation, investigation (other than internal reports prepared by any Loan Party or any of its Subsidiaries (a) in the ordinary course of such Person’s business or (b) as required in connection with a financing transaction or an acquisition or disposition of real estate) or proceeding with respect to any Environmental Liability (hereinafter “Claims”), including (i) any and all Claims by governmental or regulatory authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

“Environmental Laws” means Laws relating to the protection of the environment.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of any Loan Party or any Restricted Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract or other written agreement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Permit” means any permit, approval, identification number, license or other authorization required under any Environmental Law.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person (whether evidenced by share certificates (or similar) or not).

“ERISA” means the Employee Retirement Income Security Act of 1974.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that together with the Borrowers (or any of them) are treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA for the relevant period.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Borrower or any of its ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as a termination under Section 4062(e) of ERISA; (c) the failure to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA), whether or not waived, with respect to a Pension Plan; (d) the failure to make any required contribution to a Multiemployer Plan; (e) the incurrence by any Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to a complete or partial withdrawal by any Borrower or any of its ERISA Affiliates from a Multiemployer Plan, written notification of any Borrower or any of its ERISA Affiliates concerning the imposition of Withdrawal Liability or written notification that a Multiemployer Plan is insolvent or is in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA); (f) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Section 4041 or Section 4041A of ERISA, or the receipt by any Borrower or any of its ERISA Affiliates from the PBGC of any notice relating to the intention to terminate a Pension Plan or Multiemployer Plan; (g) the imposition of any liability under Title IV of ERISA with respect to the termination of any Pension Plan or Multiemployer Plan, other than for the payment of plan contributions or PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Borrower or any of its ERISA Affiliates; or (h) the occurrence of a non-exempt prohibited transaction (within the meaning of Section 406 of ERISA or Section 4975 of the Code) which could result in liability to any Borrower or any of its ERISA Affiliates.

“Erroneous Payment” has the meaning assigned to it in [Section 9.16\(a\)](#).

“Erroneous Payment Deficiency Assignment” has the meaning assigned to it in [Section 9.16\(d\)\(i\)](#).

“Erroneous Payment Impacted Class” has the meaning assigned to it in [Section 9.16\(d\)\(i\)](#).

“Erroneous Payment Return Deficiency” has the meaning assigned to it in [Section 9.16\(d\)\(i\)](#).

“Erroneous Payment Subrogation Rights” has the meaning assigned to it in [Section 9.16\(e\)](#).

“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.

“Eurocurrency Rate” means, for any Interest Period:

(a) in the case of any Eurocurrency Rate Loan,

(i) the rate per annum equal (but not less than 0%) to the rate determined by the Administrative Agent to be the rate of interest which is published as the “London interbank offered rate” posted on the Money Rates page of the Market Data section of The Wall Street Journal online edition (<http://online.wsj.com>) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period, or, if different, the date on which quotations would customarily be provided by leading banks in the London interbank market for deposits of amounts in Dollars for delivery on the first day of such Interest Period (“**USD LIBOR**”); or

(ii) if the rate referenced in the preceding clause (a)(i) does not appear on such page or service or such page or service shall not be available, the rate per annum equal (but not less than 0%) to the rate determined by the Administrative Agent to be the offered rate on such other page or other service that displays in place of Reuters an average ICE Benchmark Administration Interest Settlement Rate (or successor thereto) for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period, or, if different, the date on which quotations would customarily be provided by leading banks in the London interbank market for deposits of amounts in Dollars for delivery on the first day of such Interest Period; or

(iii) for Interest Periods where no interest rate corresponding to an interest period of the same duration as such Interest Period appears on any such page referenced in the preceding clauses (a)(i) and (a)(ii), such rate (which shall not be less than 0%) shall be interpolated on a straight-line basis from the rates specified on the Reuters Screen LIBOR01 Page (or any successor thereto) (and if such screen is not available, the offered rate (but not less than 0%) on such other page or other service that displays in place of Reuters an average ICE Benchmark Administration Interest Settlement Rate (or successor thereto) for deposits in Dollars) for the periods with the two closest durations to such Interest Period’s duration, which such determination shall be reasonably determined by the Administrative Agent and shall be conclusive absent manifest error; and

(b) for any interest calculation with respect to a Base Rate Loan under clause (c) of the definition of **“Base Rate”** on any date,

(i) the rate per annum equal to the rate determined by the Administrative Agent to be the rate of interest which is published as the “London interbank offered rate” posted on the Money Rates page of the Market Data section of The Wall Street Journal online edition (<http://online.wsj.com>) for one-month deposits in Dollars offered in the London interbank market (for delivery on the first day of such Interest Period) commencing on such date, determined as of approximately 11:00 a.m. (London time) two (2) Business Days prior to such date; or

(ii) if the rate referenced in preceding clause (b)(i) does not appear on such page or service or such page or service shall not be available, the rate per annum equal to the rate determined by the Administrative Agent to be the offered rate on such other page or other service that displays an average ICE Benchmark Administration Interest Settlement Rate (or successor thereto) for one-month deposits in Dollars offered in the London interbank market (for delivery on the first day of such Interest Period) commencing on such date, determined as of approximately 11:00 a.m. (London time) two (2) Business Days prior to such date; or

(iii) where no interest rate corresponding to a one-month interest period appears on any such page referenced in the preceding clauses (b)(i) and (b)(ii), such rate shall be interpolated on a straight-line basis from the rates specified on the Reuters Screen LIBOR01 Page (or any successor thereto) (and if such screen is not available, the offered rate on such other page or other service that displays in place of Reuters an average ICE Benchmark Administration Interest Settlement Rate (or successor thereto) for deposits in Dollars) for the periods with the two closest durations to such one-month duration, which such determination shall be reasonably determined by the Administrative Agent and shall be conclusive absent manifest error.

"Eurocurrency Rate Borrowing" means a Borrowing comprised of Eurocurrency Rate Loans.

"Eurocurrency Rate Loan" means a Loan that bears interest at a rate based on the applicable Adjusted Eurocurrency Rate (other than a Base Rate Loan).

"Event of Default" has the meaning specified in Section 8.01.

"Excess Cash Flow" means, for any period, an amount equal to the excess of:

(a) the sum, without duplication, of:

- (i) Consolidated Net Income of Holdings, the Borrowers and the other Restricted Subsidiaries for such period; plus
- (ii) an amount equal to the amount of all non-cash charges (including depreciation and amortization) to the extent deducted in arriving at such Consolidated Net Income, but excluding any such non-cash charges representing an accrual or reserve for potential cash items in any future period and excluding amortization of a prepaid cash item that was paid in a prior period; plus
- (iii) decreases in Consolidated Working Capital for such period (other than any such decreases arising from acquisitions or Dispositions by Holdings, the Borrowers and the other Restricted Subsidiaries completed during such period or the application of purchase accounting); plus
- (iv) an amount equal to the aggregate net non-cash loss on Dispositions by Holdings, the Borrowers and the other Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income; plus
- (v) the amount deducted as tax expense in determining Consolidated Net Income to the extent in excess of cash taxes paid or payable in respect of such periods; plus
- (vi) cash receipts in respect of Swap Contracts during such fiscal year to the extent not otherwise included in such Consolidated Net Income; over

(b) the sum, without duplication; of:

- (i) an amount equal to the amount of all non-cash gains or credits included in arriving at such Consolidated Net Income (but excluding any non-cash gains or credit to the extent representing the reversal of an accrual or reserve described in clause (a)(ii) above) and cash charges, losses or expenses excluded by virtue of clauses (a) through (q) of the definition of "**Consolidated Net Income**"; plus

(ii) without duplication of amounts deducted pursuant to clause (xi) below in prior fiscal years, the amount of Capital Expenditures, Capitalized Software Expenditures or acquisitions of intellectual property made in cash during such period by Holdings, the Borrowers or the other Restricted Subsidiaries; plus

(iii) the aggregate amount of all principal payments of Indebtedness of Holdings, the Borrowers and the other Restricted Subsidiaries (including (A) the principal component of payments in respect of Capitalized Leases, (B) the amount of any scheduled repayment of Loans pursuant to Section 2.07, and (C) the amount of any mandatory prepayment of Term Loans pursuant to Section 2.05(b)(ii) to the extent required due to a Disposition or Casualty Event that resulted in an increase to such Consolidated Net Income and not in excess of the amount of such increase, but excluding (W) all other prepayments of Term Loans (other than those specified in preceding clauses (B) and (C)) and all voluntary prepayments of Refinancing Equivalent Debt and Incremental Equivalent Debt, (X) all prepayments of Revolving Credit Loans and Swing Line Loans, (Y) all prepayments in respect of any other revolving credit facility and (Z) payments of any Junior Financing, except in each case under this clause (Z) to the extent permitted to be paid pursuant to Section 7.12(a) and so long as such payments have not been deducted from any required mandatory prepayment pursuant to Section 2.05(b)(i) made during such period, and, to the extent applicable with respect to payments of Junior Financing pursuant to Section 7.12(a), not made in reliance on clause (b) of the definition of “**Available Amount**”; plus

(iv) an amount equal to the aggregate net non-cash gain on Dispositions by Holdings, the Borrowers and the other Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income; plus

(v) increases in Consolidated Working Capital for such period (other than any such increases arising from acquisitions or Dispositions by Holdings, the Borrowers and the other Restricted Subsidiaries completed during such period or the application of purchase accounting); plus

(vi) cash payments by Holdings, the Borrowers and the other Restricted Subsidiaries during such period in respect of long-term liabilities of Holdings, the Borrowers and the other Restricted Subsidiaries (other than Indebtedness) to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income; plus

(vii) without duplication of amounts deducted pursuant to clauses (viii) and (xi) below in prior fiscal years, the amount of Investments made pursuant to Section 7.02(b), (f) (other than Investments in Restricted Subsidiaries), (i), (j) (other than Investments in Restricted Subsidiaries), (m), (n) (other than Investments in Restricted Subsidiaries), (s) (other than Investments in Restricted Subsidiaries), (u) (other than Investments in Restricted Subsidiaries), (v) (other than Investments in Restricted Subsidiaries), (aa) (other than Investments in Restricted Subsidiaries), (cc) (other than Investments in Restricted Subsidiaries) and (ff) (other than Investments in Restricted Subsidiaries), and the amount of acquisitions made during such period and, to the extent applicable, not made in reliance on clause (b) of the definition of “**Available Amount**”; plus

(viii) the amount of Restricted Payments paid during such period pursuant to Sections 7.06(c), (f), (g), (h), (i), (j), (o), (p) (solely to the extent such Restricted Payment was originally elected to be made in reliance on (and is attributed to) one of the other baskets specifically enumerated in this clause (viii) and otherwise eligible to be deducted in determining Excess Cash Flow as set forth in this clause (viii) and (q) in each case, to the extent applicable, not made in reliance on clause (b) of the definition of “**Available Amount**”; plus

(ix) the aggregate amount of expenditures, fees and expenses actually made or paid in cash by Holdings, the Borrowers and the other Restricted Subsidiaries to the extent that such expenditures are not expensed (or exceed the amount that is expensed) during such period or are not deducted in calculating Consolidated Net Income; plus

(x) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by Holdings, the Borrowers and the other Restricted Subsidiaries during such period that are made in connection with any prepayment of Indebtedness to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income and such prepayments reduced Excess Cash Flow pursuant to clause (b)(iii) above or reduced the mandatory prepayment required by Section 2.05(b)(i); plus

(xi) without duplication of amounts deducted from Excess Cash Flow in prior periods, at the option of the Lead Borrower, the aggregate consideration required to be paid in cash by Holdings, the Borrowers or any of the other Restricted Subsidiaries pursuant to binding contracts (the “**Contract Consideration**”) entered into prior to or during such period relating to tax expenses, interest payments, Investments (other than Investments in Restricted Subsidiaries), Restricted Payments, Permitted Acquisitions, Capital Expenditures, Capitalized Software Expenditures or acquisitions of intellectual property expected to be consummated or made during the period of four consecutive fiscal quarters of the Borrowers following the end of such period; provided that, to the extent the aggregate amount of cash actually utilized to finance such tax expenses, interest payments, Investments, Restricted Payments, Permitted Acquisitions, Capital Expenditures, Capitalized Software Expenditures or acquisitions of intellectual property during such period of four consecutive fiscal quarters is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters; plus

(xii) the amount of cash taxes paid or tax reserves set aside or payable (without duplication) in such period, to the extent they exceed the amount of tax expense deducted in determining Consolidated Net Income for such period; plus

(xiii) cash expenditures in respect of Swap Contracts during such fiscal year to the extent not deducted in arriving at such Consolidated Net Income;

provided that, (A) with respect to the payments and prepayments of the types of Indebtedness described in clause (b)(iii) of the foregoing definition of Excess Cash Flow, such amounts shall not be included in the aggregate amount calculated pursuant to the foregoing clause (b) for any applicable period to the extent such payments were funded or otherwise financed with the proceeds of long-term Indebtedness (other than proceeds of a Revolving Credit Loan) and (B) with respect to the amounts and/or payments described in each of clauses (b)(ii), (b)(vii), (b)(viii) and (b)(xi) of the foregoing definition of Excess Cash Flow, such amounts shall not be included in the aggregate amount calculated pursuant to the foregoing clause (b) for any applicable period to the extent such payments were funded or otherwise financed with the proceeds of long-term Indebtedness (other than proceeds of a Revolving Credit Loan) and/or the proceeds of equity contributions to/equity issuances by Holdings or any of its Subsidiaries.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Excluded Assets**” means any of the following:

(a) any lease, license, franchise, charter, authorization, contract or agreement to which any Loan Party is a party, and any of its rights or interest thereunder, or any property subject to a purchase money security interest, capital lease obligation or similar arrangement, or (solely with respect to the immediately succeeding clauses (i)(A), (i)(B) (solely with respect to any prohibition under applicable Laws) and (i)(C) (solely with respect to governmental consent), any other asset), if and to the extent that the pledge thereof or the grant of a security interest, (i) (A) is prohibited by or in violation of any Laws (including, without limitation, financial assistance laws, corporate benefit laws or otherwise), rule or regulation applicable to any Loan Party, except to the extent such prohibition is rendered ineffective under the Uniform Commercial Code or other applicable Laws, (B) would be prohibited by the enforceable anti-assignment provisions of any contract or Law applicable to any Loan Party or with respect to any lease, license, franchise, charter, authorization, contract or agreement to which any Loan Party is a party, and of its rights or interest thereunder, to the extent such a grant or security interest therein would violate the terms of any contract with respect to such assets or would trigger termination of such contract (including any purchase money security interest, capital lease obligation or similar arrangement) or any such material rights therein pursuant to any “**change of control**” or other provision or applicable Laws (in each case, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other applicable Laws) and is not incurred principally for the purpose of taking advantage of the foregoing security exclusion, or (C) requires any governmental or third party consent, license or authorization (unless such consent, license or authorization has been obtained), or (ii) is prohibited by or in violation of a term, provision or condition of any such lease, license, franchise, charter, authorization, contract or agreement (in each case, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other applicable Laws in any relevant jurisdiction) and is not incurred principally for the purpose of taking advantage of the foregoing security exclusion; *provided, however,* that the Collateral shall include (and such security interest shall attach) at such time as the contractual or legal prohibition shall no longer be applicable and to the extent severable, shall attach to any portion of such lease, license, franchise, charter, authorization, contract, agreement or other asset

not subject to the prohibitions specified in (i) or (ii) above; *provided, further*, that the exclusions referred to in this clause (a) shall not include any proceeds and receivables of any such lease, license, franchise, charter, authorization, contract or agreement the assignment of which is expressly deemed effective under applicable Law notwithstanding such prohibition (unless such proceeds or receivables would independently constitute Excluded Assets);

(b) (i) with respect to Obligations of any Loan Party that is a U.S. Person, any assets held by a CFC or FSHCO and voting Equity Interests in excess of 65% of the total issued and outstanding Equity Interests that are entitled to vote within the meaning of Treas. Reg. Section 1.956-2(c)(2)) of (x) a Foreign Subsidiary that is a CFC and a direct Subsidiary of a Loan Party or (y) any direct Domestic Subsidiary of a Loan Party that is a FSHCO, (ii) Equity Interests in any Person other than any Borrower or any Borrower's wholly-owned Restricted Subsidiaries that are not Immaterial Subsidiaries, Captive Insurance Subsidiaries, not-for-profit organizations, or special purpose entities formed and used solely for a securitization transaction or similar special purpose, (iii) with respect to Obligations of any Loan Party that is a U.S. Person, Equity Interests held by a CFC or FSHCO and (iv) Margin Stock;

(c) any "**intent-to-use**" application for registration of a trademark filed pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051, prior to the filing of a "**Statement of Use**" pursuant to Section 1(d), or an "**Amendment to Allege Use**" pursuant to Section 1(c), of the Lanham Act, to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of any registration that issues from such intent-to-use application under applicable Laws;

(d) (i) any leasehold interest (including any ground lease interest) in real property (it being agreed that no Loan Party shall be required to deliver landlord or other third party lien waivers, estoppels or collateral access letters), (ii) any fee interest in owned real property that is not Material Real Property and (iii) any fixtures affixed to any real property to the extent a security interest in such fixtures may not be perfected by a UCC-1 financing statement in the jurisdiction of organization of the applicable Loan Party, or, solely in the case of fixtures affixed to any Material Real Property, to the extent a security interest in such fixtures may not be perfected by the recording of a Mortgage or the filing of a fixture filing in the jurisdiction where such Material Real Property is located;

(e) vehicles and other assets subject to certificates of title or ownership;

(f) letters of credit and letter of credit rights except to the extent constituting a supporting obligation for other Collateral as to which perfection of the security interest in such other Collateral may be accomplished by the filing of a Uniform Commercial Code financing statement;

(g) commercial tort claims that, in the reasonable determination of the Borrower, are not expected to result in a judgment in excess of \$5,000,000;

(h) assets for which the grant would result in adverse tax or regulatory costs or consequences (other than *ad minimis* amount) (including as a result of the operation of Section 956 of the Code) for Holdings and its Subsidiaries, taken as a whole, as determined by the Lead Borrower in good faith and in consultation with the Administrative Agent; and

(i) particular assets if and for so long as, as reasonably agreed by the Lead Borrower and the Administrative Agent, the cost, difficulty, burden or consequences of obtaining, perfecting or maintaining a security interest in such assets exceeds the practical benefits to the Lenders afforded thereby.

Notwithstanding the foregoing, the only assets of an Australian Loan Party that shall constitute "Excluded Assets" shall be those described in clauses (a), (b) and (h) above, and the documentation in respect of any security granted by an Australian Loan Party shall not cover dealings with such excluded property subject to springing security arising during any Administration Period, where "Administration Period" means the period beginning on the date of appointment of an administrator to any Australian Loan Party pursuant to sections 436A, 436B or 436C of the Australian Corporations Act and ending on the date which the administration ends pursuant to section 435C(1)(b) of the Australian Corporations Act.

"Excluded Contribution" means (1) the Net Cash Proceeds received by any Borrower or any of the other Restricted Subsidiaries that are Loan Parties from:

- (a) contributions in respect of Qualified Equity Interests, and
 - (b) the sale (other than to any Borrower, any other Subsidiary or pursuant to any Borrower or Subsidiary management equity plan or equity-based plan or any other management or employee benefit plan or agreement) of Qualified Equity Interests of Holdings, plus
- (2) the Net Cash Proceeds received by any Borrower or any of the other Restricted Subsidiaries that are Loan Parties from issuances of debt securities or Disqualified Equity Interests incurred or issued by Holdings after the Closing Date that have been converted into or exchanged for Qualified Equity Interests of Holdings or any direct or indirect parent thereof,

in each case, other than Specified Equity Contributions or amounts that are or have been included in the calculation of Available Amount, and so long as same is designated as Excluded Contributions pursuant to a certificate of a Responsible Officer on or promptly after the date such capital contributions, sales, conversions or exchanges are made.

"Excluded Subsidiary" means (a) Immaterial Subsidiaries, (b) Unrestricted Subsidiaries, (c) any Subsidiary that is prohibited or restricted by applicable Law, regulation or Contractual Obligation (so long as, in respect to any such Contractual Obligation, such prohibition existed on the Closing Date or, if later, on the date the applicable Subsidiary is acquired and is not incurred principally for the purpose of taking advantage of the foregoing guarantee exclusion or, in the case of an Australian Subsidiary, cannot be overcome by conducting a financial assistance "whitewash") from providing a Guaranty or that would require a governmental (including regulatory) consent, approval, license or authorization in order to provide a Guaranty (including, in each case, under any financial assistance, corporate benefit or thin capitalization rule), in each case, for so long as such prohibition or circumstance exists, (d) any Subsidiary that is not a wholly owned Subsidiary of any Borrower or any Guarantor, (e) solely with respect to the Obligations of any Loan Party that is a U.S. Person, any Foreign Subsidiary that is a CFC, (f) solely with respect to the Obligations of any Loan Party that is a U.S. Person, any Subsidiary that is a FSHCO, (g) any Subsidiary that is a not-for-profit organization, (h) Captive Insurance Subsidiaries, (i) any Subsidiary that is a special purpose entity and used primarily for a securitization transaction or similar special purposes, (j) any Subsidiary with respect to which providing a Guaranty would result in adverse tax consequences (other than a *de minimis* amount) (including as a result of Section 956 of the Code or any similar Law in any applicable jurisdiction) to Holdings and its Subsidiaries, taken as a whole, as reasonably determined by the Lead Borrower in good faith and in consultation with the Administrative Agent and (k) any other Subsidiary with respect to which, as reasonably determined by the Administrative Agent and the Lead Borrower, the burden or cost of providing a Guaranty outweighs the benefits afforded to the Lenders thereby.

"Excluded Swap Obligation" means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the U.S. Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason to constitute an "**eligible contract participant**" as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guarantee of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a Master Agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof).

"Executive Order" means the Executive Order No. 13224 of September 23, 2001, entitled Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism.

"Existing Revolving Credit Loan Facility" has the meaning provided in [Section 2.18\(a\)](#).

“Existing Term Loan Facility” has the meaning specified in Section 2.17(a).

“Extended Commitments” means the Extended Term Commitments and/or the Extended Revolving Credit Commitments, as the context may require.

“Extended Loans” means Extended Term Loans and/or Extended Revolving Credit Loans, as the context may require.

“Extended Revolving Credit Commitments” has the meaning specified in Section 2.18(a), as the same may be adjusted from time to time in accordance with the terms of this Agreement (including as a result of permitted increases thereto, and reductions thereto, in accordance with the terms of this Agreement and adjusted for assignments effected in accordance with the provisions of Section 10.07(b)). Each Lender with an Extended Revolving Credit Commitment shall be obligated to (a) make Revolving Credit Loans to the Borrowers pursuant thereto and in accordance with Section 2.01(b) and (b) purchase participations in L/C Obligations and Swing Line Loans as provided herein.

“Extended Revolving Credit Loan” has the meaning specified in Section 2.18(a) and includes each Revolving Credit Loan made by an Extending Revolving Credit Lender pursuant to its Extended Revolving Credit Commitment (or originally made pursuant to a Non-Extended Revolving Credit Commitment to the extent the same has been converted into an Extended Revolving Credit Commitment).

“Extended Term Commitment” means one or more commitments hereunder to convert Term Loans under an Existing Term Loan Facility to Extended Term Loans of a given Term Loan Extension Series pursuant to an Extension Amendment.

“Extended Term Loans” has the meaning specified in Section 2.17(a).

“Extending Revolving Credit Lender” has the meaning specified in Section 2.18(b).

“Extending Term Lender” has the meaning specified in Section 2.17(b).

“Extension” means the establishment of an Extension Series by amending a Loan or a Commitment pursuant to Section 2.17 or Section 2.18, as applicable, and the applicable Extension Amendment.

“Extension Amendment” means an amendment to this Agreement in form and substance reasonably satisfactory to the Administrative Agent and the Lead Borrower executed by each of (a) the Lead Borrower, (b) the Administrative Agent and (c) each Lender that agrees to provide any Extended Commitments or Extended Loans being incurred pursuant thereto, in accordance with Section 2.17 or Section 2.18.

“Extension Minimum Condition” means a condition to consummating any Extension Amendment that a minimum amount (to be determined and specified by the Lead Borrower in its sole discretion in the relevant Extension Request) of Loans or Commitments of any or all applicable Classes be submitted for Extension.

“Extension Request” means a notice to the Administrative Agent setting forth the proposed terms of (i) Extended Term Loans in accordance with Section 2.17(a) or (ii) Extended Revolving Credit Commitments in accordance with Section 2.18(a).

“Extension Series” means and includes each Revolving Credit Loan Extension Series and each Term Loan Extension Series.

“E-Fax” means any system used to receive or transmit faxes electronically.

“E-Signature” means the process of attaching to or logically associating with an Electronic Transmission an electronic symbol, encryption, digital signature or process (including the name or an abbreviation of the name of the party transmitting the Electronic Transmission) with the intent to sign, authenticate or accept such Electronic Transmission.

“E-System” means any electronic system approved by the Administrative Agent in its reasonable discretion, including Syndral®, Intralinks® and ClearPar® and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent, any of its Agent-Related Persons or any other Person, providing for access to data protected by passcodes or other security system.

“Facility” means the Initial Term Loans, the Revolving Credit Facility (including any Non-Extended Revolving Credit Commitments) and all extensions of credit pursuant thereto, any Refinancing Term Loans, any Refinancing Revolving Credit Loan, any Extended Term Loans, any Extended Revolving Credit Loan, any New Term Loans, any New Revolving Credit Loans or any Replacement Term Loans, as the context may require.

“FATCA” means Section 1471 through Section 1474 of the Code as in effect on the date hereof (or any amended or successor provision that is substantively comparable and not materially more onerous to comply with) and, in each case, any current or future regulations promulgated thereunder or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any intergovernmental agreement with respect thereto between the United States and another jurisdiction and related fiscal or regulatory legislation, rules or official interpretations thereof implementing the foregoing.

“FCA” has the meaning specified in [Section 3.03\(b\)](#).

“FCPA” means the United States Foreign Corrupt Practices Act of 1977 (Pub. L. No. 95213, §§ 101.104), as amended.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System of the United States on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

“Fee Letter” means the Fee Letter, dated as of August 12, 2021, among KeyBank, the Lead Arrangers, Wells Fargo Bank, National Association, Bank of America, N.A., Credit Suisse AG, Cayman Islands Branch, Jefferies Finance LLC and the Lead Borrower.

“FIRREA” means the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

“First Lien Intercreditor Agreement” means an intercreditor agreement substantially in the form of Exhibit Q hereto (which agreement in such form, or with changes thereto that are immaterial to the interests of the Lenders, the Administrative Agent is authorized to enter into) together with any changes material to the interests of the Lenders, which such changes shall be posted to the Lenders not less than five (5) Business Days before execution thereof and, if the Required Lenders shall not have objected in writing to such changes within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent’s entry into such intercreditor agreement (with such changes) is reasonable and to have consented to such intercreditor agreement (with such changes) and to the Administrative Agent’s execution thereof.

“Fixed Charge Coverage Ratio” means, with respect to Holdings and its Restricted Subsidiaries for any period, the ratio of (a) Consolidated EBITDA for such period minus the sum of (i) unfinanced Capital Expenditures paid in cash during such period (except to the extent financed with proceeds of equity or long-term Indebtedness (other than proceeds of a Revolving Credit Loan)), (ii) all federal, state, and local income taxes paid in cash during such period and (iii) distributions to the Sponsor or other equityholders of Public Parent in respect of their direct or indirect ownership of Equity Interests in Holdings and its Restricted Subsidiaries paid in cash during such period, to (b) Fixed Charges payable by Holdings and its Restricted Subsidiaries in cash for such period.

“Fixed Charges” means, with respect to Holdings and its Restricted Subsidiaries for any period, the sum, without duplication, of (a) interest expense paid in cash during such period (excluding all upfront, closing and similar fees paid on the Closing Date) and (b) regularly scheduled principal payments in respect of Indebtedness for borrowed money or representing the principal component of Capitalized Lease Obligations that are required to be paid in cash during such period (except to the extent paid with the proceeds of a Permitted Refinancing and excluding required mandatory prepayments under Section 2.05); *provided* that, solely for the purposes of calculating clause (b) of the Fixed Charge Coverage Ratio, Fixed Charges for the four fiscal quarter period ending December 31, 2021 shall be calculated as Fixed Charges for the fiscal quarter ending December 31, 2021 multiplied by 4; Fixed Charges for the four fiscal quarter period ending March 31, 2022 shall be calculated as Fixed Charges for the two fiscal quarters ending March 31, 2022 multiplied by 2; and Fixed Charges for the four fiscal quarter period ending June 30, 2022 shall be calculated as Fixed Charges for the three fiscal quarters ending June 30, 2022 multiplied by 1.33.

“Floor” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to each Relevant Rate.

“Foreign Lender” has the meaning specified in Section 3.01(c)(i).

“Foreign Plan” means any retirement benefit or pension plan maintained or contributed to by, or entered into with, any Borrower or any other Restricted Subsidiary with respect to any employees employed outside the United States which under applicable Laws is required to be funded through a trust or other funding vehicle other than a trust or funding vehicle maintained exclusively by a Governmental Authority.

“Foreign Subsidiary” means any direct or indirect Restricted Subsidiary that is not a Domestic Subsidiary.

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

“FSHCO” means any Subsidiary all the material assets of which consist, directly or indirectly, of cash and/or Equity Interests in one or more Foreign Subsidiaries and/or Unrestricted Subsidiaries that are CFCs and/or Indebtedness of such Subsidiaries.

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

“Funded Debt” means, in respect of any Person, all third-party Indebtedness of such Person for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

“GAAP” means generally accepted accounting principles in the United States of America and Australia, as applicable, as in effect from time to time; *provided, however*, that if the Lead Borrower notifies the Administrative Agent that the Lead Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof (including through conforming changes made consistent with IFRS) on the operation of such provision (or if the Administrative Agent notifies the Lead Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof (including through conforming changes made consistent with IFRS), then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

“Governmental Authority” means the government of the United States, the Commonwealth of Australia or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

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

“Group Liability” has the meaning given in section 721-10 of the Australian Tax Act.

“Guarantee” means, as to any Person, without duplication, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another Person (the “**primary obligor**”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation, (b) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary obligation, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, or (d) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part); provided that the term “Guarantee” shall not include endorsements for collection or deposit, in either case in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or Disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness for borrowed money). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantors” has the meaning specified in the definition of **“Collateral and Guarantee Requirement.”** The Borrowers may cause any Restricted Subsidiary that is not a Guarantor to Guarantee the Obligations by causing such Restricted Subsidiary to execute a Guaranty, and any such Restricted Subsidiary shall be a Guarantor hereunder and under the other Loan Documents for all purposes.

“Guaranty” means (a) the guaranty made by the Guarantors in favor of the Administrative Agent on behalf of the Secured Parties pursuant to clause (b) of the definition of **“Collateral and Guarantee Requirement,”** substantially in the form of Exhibit F, and (b) each other guaranty and guaranty supplement delivered pursuant to this Agreement or any other Loan Document.

“Hazardous Materials” means any substance, material or waste that is regulated, classified, or otherwise characterized as “hazardous,” “toxic,” a “pollutant,” a “contaminant,” “radioactive” or “explosive” pursuant to any Environmental Law.

“Head Company” means the Head Company (as defined in the Australian Tax Act) of a Consolidated Group.

“Hedge Bank” means any Person that either (i) is a party to a Secured Hedge Agreement and has executed and delivered to the Collateral Agent an accession agreement and becomes a party to the Security Agreement or (ii) is an Agent, a Lender, a Lead Arranger or an Affiliate of any of the foregoing at the time it enters into a Secured Hedge Agreement (or, in the case of Secured Hedge Agreements existing on the Closing Date, on the Closing Date), in its capacity as a party to a Secured Hedge Agreement, whether or not such Person subsequently ceases to be an Agent, a Lender, a Lead Arranger or an Affiliate of any of the foregoing.

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

"Holdings Parent" means any direct or indirect parent company of Holdings.

"Honor Date" has the meaning specified in [Section 2.03\(c\)](#).

"IBA" has the meaning specified in [Section 3.03\(b\)](#).

"Identified Participating Lenders" has the meaning specified in [Section 2.05\(a\)\(v\)\(C\)\(2\)](#).

"Identified Qualifying Lenders" has the meaning specified in [Section 2.05\(a\)\(v\)\(D\)\(2\)](#).

"IFRS" means International Financial Reporting Standards and applicable accounting requirements set by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants, or any successor to either such Board, or the SEC, as the case may be), as in effect from time to time.

"Immaterial Subsidiary" means any Restricted Subsidiary (which in any case may not be the Borrowers) with respect to which, as of the last day of the most recently ended Test Period on or prior to the date of determination, Consolidated EBITDA attributable to such Restricted Subsidiary for the period of four consecutive fiscal quarters ending on such date does not exceed 5.0% of the Consolidated EBITDA of Holdings, the Borrowers and the other Restricted Subsidiaries for such period; *provided* that if the aggregate Consolidated EBITDA attributable to Restricted Subsidiaries that are Immaterial Subsidiaries shall exceed 10.0% of Consolidated EBITDA of Holdings, the Borrowers and the other Restricted Subsidiaries for such four-quarter period, then the Lead Borrower shall re-designate one or more of such Restricted Subsidiaries to not be Immaterial Subsidiaries within ten (10) Business Days after delivery of the Compliance Certificate for such fiscal quarter such that only Restricted Subsidiaries as shall then have aggregate Consolidated EBITDA of 10.0% or less of the Consolidated EBITDA of Holdings, the Borrowers and the other Restricted Subsidiaries shall constitute Immaterial Subsidiaries.

"Incremental Amendment" has the meaning specified in [Section 2.14\(c\)](#).

"Incremental Amount Date" has the meaning specified in [Section 2.14\(c\)](#).

"Incremental Equivalent Debt" means one or more series of senior unsecured notes or loans, senior secured first lien or junior lien notes or loans, subordinated notes or loans, or secured (first lien or junior lien) or unsecured mezzanine Indebtedness, in the case of securities, whether issued in a public offering, Rule 144A or other private placement, or any bridge facility in lieu of any of the foregoing or otherwise, secured by all or a portion of the Collateral (if at all) on a *pari passu* (but without regard to control of remedies) or junior basis with the Obligations, which Indebtedness is issued or made in lieu of New Revolving Credit Commitments, New Term Commitments and/or New Term Loans pursuant to an indenture, loan agreement, credit agreement, note purchase agreement or otherwise; *provided* that (i) the aggregate principal amount of any Incremental Equivalent Debt then being incurred or issued at the time of incurrence or issuance shall not, together with the aggregate principal amount of any New Revolving Credit Commitments, New Term Commitments and/or New Term Loans then being incurred or issued substantially simultaneously with such Incremental Equivalent Debt, exceed the Available Incremental Amount at the time of incurrence or issuance thereof, (ii) such Incremental Equivalent Debt shall be incurred or issued by the Borrowers and shall not be subject to any Guarantee by any Person other than a Loan Party, (iii) the interest rate (including margin and floors) applicable to any such Incremental Equivalent Debt will be determined by the Lead Borrower and the Persons providing such Incremental Equivalent Debt; *provided* that, with respect to any Incremental Equivalent Debt that constitutes term loans secured by all or a portion of Collateral on a *pari passu* basis (but without regard to control of remedies) with the Obligations that would be permitted to be incurred as a New Term Loan pursuant to [Section 2.14](#), if the All-In Yield applicable to any such Incremental Equivalent Debt constituting term loans exceeds the All-In Yield of the Initial Term Loans made on the Closing Date at such time by more than 50 basis points, then the interest rate margins for the Initial Term Loans shall be increased to the extent necessary so that the All-In Yield of the Initial Term Loans is equal to the All-In Yield of such Incremental Equivalent Debt minus 50 basis points; *provided* that any increase in All-In Yield to any Initial Term Loan due solely to the application or imposition of a Eurocurrency Rate or Base Rate floor on any such Incremental Equivalent Debt shall be effected, at the Lead Borrower's option, (x) through an increase in (or implementation of, as applicable) any Eurocurrency Rate or Base Rate floor applicable to

such Initial Term Loan, (y) through an increase in the Applicable Rate for such Initial Term Loan or (z) any combination of (x) and (y) above, and in each case, solely to the extent that the application or imposition of such floor would cause an increase in the effective interest rate then in effect under the Initial Term Loans, (iv) in the case of Incremental Equivalent Debt that is secured, (A) the obligations in respect thereof shall not be secured by any Lien on any asset other than any asset constituting Collateral, (B) the security agreements relating to such Incremental Equivalent Debt shall be substantially the same as the Collateral Documents (with such differences as are appropriate to reflect the nature of such Incremental Equivalent Debt and are otherwise reasonably satisfactory to the Administrative Agent) and (C) such Incremental Equivalent Debt shall be subject to a First Lien Intercreditor Agreement or a Second Lien Intercreditor Agreement, as appropriate, or to other customary intercreditor arrangements reasonably acceptable to the Lead Borrower and the Administrative Agent, (v) both immediately before and immediately after the incurrence of such Indebtedness (or, in the case of Indebtedness to be incurred in connection with a Permitted Acquisition or permitted Investment, on the date of the execution of (x) the definitive agreement in connection therewith and (y) any commitment in respect of such Incremental Equivalent Debt), no Event of Default exists, (vi) no Incremental Equivalent Debt shall mature earlier than the Latest Maturity Date (as of the time of incurrence of such Incremental Equivalent Debt) (or, if such Incremental Equivalent Debt is secured on a junior lien basis or is unsecured, such Incremental Equivalent Debt shall not mature earlier than the date 180 days after the Latest Maturity Date), (vii) no Incremental Equivalent Debt shall have a Weighted Average Life to Maturity of less than the Weighted Average Life to Maturity as then in effect for any Term Loans outstanding as of the time of incurrence of such Incremental Equivalent Debt (prior to any extension thereto), (viii) any Incremental Equivalent Debt (to the extent secured by all or a portion of the Collateral on a pari passu basis with the Obligations) may provide for the ability to participate on a pro rata basis or less than pro rata basis (but not greater than a pro rata basis) in any voluntary repayments or prepayments of principal of Term Loans hereunder and on a pro rata basis or less than a pro rata basis (but not greater than a pro rata basis other than in connection with a Permitted Refinancing thereof) in any mandatory repayments or prepayments of principal of Term Loans hereunder and (ix) the covenants and events of default applicable to such Incremental Equivalent Debt shall not be, when taken as a whole, materially more favorable, to the holders of such Indebtedness than those applicable to the Term Loans (except for covenants or other provisions applicable only to periods after the Latest Maturity Date) unless such covenants and events of default for such Incremental Equivalent Debt (x) are reflective of market terms and conditions for the type of Indebtedness incurred or issued at the time of issuance or incurrence thereof (in each case, as determined by the Lead Borrower in good faith); *provided* that a certificate of the Lead Borrower delivered to the Administrative Agent at least three (3) Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material covenants of such Indebtedness or drafts of the documentation relating thereto, stating that the Lead Borrower has reasonably determined in good faith that such covenants and defaults satisfy the foregoing requirement shall be conclusive evidence that such covenants and defaults satisfy the foregoing requirement unless the Administrative Agent notifies the Lead Borrower within such three (3) Business Day period that it disagrees with such determination (including a reasonably detailed description of the basis upon which it disagrees) or (y) are otherwise reasonably satisfactory to the Administrative Agent.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP or IFRS, as applicable:

- (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) the maximum amount (after giving effect to any prior drawings or reductions that may have been reimbursed) of all outstanding letters of credit (including standby and commercial), bankers' acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;
- (c) net obligations of such Person under any Swap Contract;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable and accrued expenses payable in the ordinary course of business, (ii) any earn-out obligation until such obligation is not paid after becoming due and payable and (iii) accruals for payroll and other liabilities accrued in the ordinary course of business);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

- (f) all Attributable Indebtedness;
- (g) all obligations of such Person in respect of Disqualified Equity Interests; and
- (h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person's liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included in the calculation of Consolidated Total Debt. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (i) the aggregate unpaid amount of such Indebtedness and (ii) the fair market value (as determined by such Person in good faith) of the property of such Person encumbered thereby as determined by such Person in good faith.

"Indemnified Liabilities" has the meaning specified in [Section 10.05](#).

"Indemnitees" has the meaning specified in [Section 10.05](#).

"Independent Financial Advisor" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Lead Borrower, qualified to perform the task for which it has been engaged and that is independent of the Borrowers and their respective Affiliates.

"Information" has the meaning specified in [Section 10.08](#).

"Initial Term Commitment" means, as to each Term Lender, its obligation to make an Initial Term Loan to the Borrowers pursuant to [Section 2.01\(a\)](#) in an aggregate amount not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 (as in effect on the Closing Date) under the caption "**Initial Term Commitment**," as such amount may be adjusted from time to time in accordance with this Agreement. The initial aggregate amount of the Initial Term Commitments is \$100,000,000.

"Initial Term Loan" and **"Initial Term Loans"** have the meanings specified in [Section 2.01\(a\)](#).

"Intellectual Property Security Agreements" has the meaning specified in the Security Agreement.

"Intercompany Note" means any intercompany note substantially in the form of Exhibit I.

"Intercreditor Agreements" means the First Lien Intercreditor Agreement, the Second Lien Intercreditor Agreement, and other customary intercreditor agreements or arrangements reasonably acceptable to the Lead Borrower and the Administrative Agent, collectively, in each case to the extent in effect.

"Interest Payment Date" means, (a) as to any Loan of any Class other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; provided that if any Interest Period for a Eurocurrency Rate Loan or a BBSY Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates with respect to such Eurocurrency Rate Loan or BBSY Rate Loan, as applicable; and (b) as to any Base Rate Loan (including a Swing Line Loan) of any Class, the last Business Day of each March, June, September and December (commencing with the last Business Day of December, 2021), and the Maturity Date of the Facility under which such Loan was made.

"Interest Period" means, (a) as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, three or six months thereafter, or to the extent consented to by each applicable Lender of such Eurocurrency Rate Loan, twelve months (or such period of less than one month as may be consented to by the Administrative Agent), as selected by the Lead Borrower in its Loan Notice, and (b) as to each BBSY Rate Loan, the period commencing on the date such BBSY Rate Loan is disbursed or continued as a BBSY Rate Loan and ending on the date one, three or six months thereafter as selected by the Lead Borrower in its Loan Notice; *provided* that:

(b) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the immediately preceding Business Day;

(c) any Interest Period (other than an Interest Period having a duration of less than one month) that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

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

"Intermediate Parent" means any Subsidiary of Holdings of which each Borrower is a subsidiary.

"Investment" means, as to any Person, the acquisition or investment by such Person, by means of (a) the purchase or other acquisition (including without limitation by merger or otherwise) of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person or (c) the purchase or other acquisition (in one transaction or a series of transactions, including without limitation by merger or otherwise) of all or substantially all of the property and assets of another Person or assets constituting a business unit, line of business or division of such Person; provided that, in the event that any Investment is made by Holdings, the Borrowers or any other Restricted Subsidiary in any Person through substantially concurrent interim transfers of any amount through Holdings, the Borrowers or any other Restricted Subsidiaries, then such other substantially concurrent interim transfers shall be disregarded for purposes of **Section 7.02**. For purposes of covenant compliance, the amount of any Investment at any time shall be the amount actually invested (measured at the time made (which, in the case of any Investment constituting the contribution of an asset or property, shall be based on the Lead Borrower's good faith estimate of the fair market value of such asset or property at the time such Investment is made)), without adjustment for subsequent changes in the value of such Investment (including any write-downs or write-offs thereof), net of any Returns with respect to such Investment.

"Investment Grade Rating" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by any other nationally recognized statistical rating agency selected by the Lead Borrower.

"IP Rights" has the meaning specified in **Section 5.15**.

"IPO" means (i) any transaction whereby, or upon the consummation of which, any direct or indirect parent of Holdings' (including a special purpose acquisition company or related entity), as the case may be, common Equity Interests are publicly listed (whether through an initial public offering, a direct listing or otherwise) on any United States national securities exchange, automated interdealer quotation system or over the counter market or analogous exchange or market in Canada, Australia, the United Kingdom or any country of the European Union (including pursuant to an "Up-C" structure), (ii) the consummation of any merger, acquisition, contribution, equity purchase or similar reorganization transaction or series of transactions resulting in the combination (or any direct or indirect parent company of Holdings or corporate successor (including a Subsidiary) thereof) and any special purpose acquisition company or similar entity (including with a direct or indirect parent or Subsidiary thereof), where the common Equity Interests of such surviving entity (or any direct or indirect parent thereof) are publicly listed on any United States national securities exchange, automated interdealer quotation system or over the counter market or analogous exchange or market in Canada, Australia the United Kingdom or any country of the European Union or (iii) the Closing Date IPO.

“IRS” means the Internal Revenue Service of the United States.

“ISDA Definitions” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

“ISP” means, with respect to any Letter of Credit, the **“International Standby Practices 1998”** published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“Issuer Documents” means, with respect to any Letter of Credit, the Letter of Credit Application and any other document, agreement and instrument entered into by the L/C Issuer and any Borrower (or any Restricted Subsidiary) or in favor of the L/C Issuer and relating to such Letter of Credit.

“Joint Venture” means (a) any Person which would constitute an “equity method investee” of any Borrower or any of the Restricted Subsidiaries and (b) any Person in whom any Borrower or any of the Restricted Subsidiaries beneficially owns any Equity Interest that is not a Restricted Subsidiary (other than an Unrestricted Subsidiary).

“Judgment Currency” has the meaning specified in Section 10.26.

“Junior Financing” has the meaning specified in Section 7.12(a).

“Junior Financing Documentation” means any documentation governing or evidencing any Junior Financing.

“L/C Advances” means with respect to each Revolving Credit Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Pro Rata Share or other applicable share provided for under this Agreement.

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Credit Borrowing.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the renewal or increase of the amount thereof.

“L/C Issuer” means KeyBank, and any other Lender or Affiliate of a Lender that becomes an L/C Issuer in accordance with Section 2.03(l) or 10.07(k), in each case, in its capacity as an issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder. Instead of issuing Letters of Credit directly, any L/C Issuer may arrange for one or more Letters of Credit to be issued indirectly through any other financial institution reasonably acceptable to such L/C Issuer.

“L/C Obligations” means, as at any date of determination (without duplication), (a) the aggregate stated amount available to be drawn under all outstanding Letters of Credit plus (b) the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“Latest Maturity Date” means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Initial Term Loan, the Revolving Credit Commitment, any New Revolving Credit Commitment, any New Term Commitment, any New Term Loan, any New Revolving Credit Loan, any Refinancing Loan, any Refinancing Commitment, any Extended Loan, any Extended Commitment or any Replacement Term Loan, in each case as extended in accordance with this Agreement from time to time.

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

“**LCT Election**” has the meaning specified in [Section 1.08\(e\)](#).

“**LCT Test Date**” has the meaning specified in [Section 1.08\(e\)](#).

“**Lead Arrangers**” means KeyBanc Capital Markets Inc. and Wells Fargo Securities, LLC, in their capacities as joint lead arrangers under this Agreement.

“**Lender**” has the meaning specified in the introductory paragraph to this Agreement and, as the context requires, includes each L/C Issuer and the Swing Line Lender and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a “Lender”. Each Additional Lender shall be a Lender to the extent any such Person has executed and delivered a Refinancing Amendment, an Incremental Amendment or an amendment to this Agreement in respect of Replacement Term Loans, as the case may be, and such Refinancing Amendment, Incremental Amendment or amendment to this Agreement in respect of Replacement Term Loans, as the case may be, shall have become effective in accordance with the terms hereof and thereof, and each Extending Revolving Credit Lender and Extending Term Lender shall continue to be a Lender. As of the Closing Date, Schedule 2.01 sets forth the name of each Lender.

“**Lending Office**” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Lead Borrower and the Administrative Agent by not less than five (5) Business Days’ written notice.

“**Letter of Credit**” means any letter of credit issued hereunder. A Letter of Credit may be a commercial or documentary letter of credit or a standby letter of credit.

“**Letter of Credit Application**” means an application and agreement for the issuance or extension of, or amendment to, a Letter of Credit substantially in the form of Exhibit B or such other form as may be agreed by the Lead Borrower and the applicable L/C Issuer.

“**Letter of Credit Expiration Date**” means the day that is three (3) Business Days prior to the latest scheduled Maturity Date then in effect for any Revolving Credit Commitments (or, if such day is not a Business Day, the next preceding Business Day).

“**Letter of Credit Exposure**” means, at any time, the aggregate amount of all L/C Obligations at such time in respect of Letters of Credit. The Letter of Credit Exposure of any Revolving Credit Lender at any time shall be its Revolving Credit Percentage of the aggregate Letter of Credit Exposure at such time.

“**Letter of Credit Sublimit**” means, at any time, an amount equal to the lesser of (a) a Dollar Amount of \$20,000,000, as such amount may be adjusted hereunder from time to time and (b) the aggregate amount of the Revolving Credit Commitments as in effect at such time. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Credit Facility.

“**Lien**” means any mortgage, pledge, hypothecation, collateral assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, any Capitalized Lease having substantially the same economic effect as any of the foregoing and any “security interest” as defined in s12(1) of the PPSA); *provided* that in no event shall an operating lease in and of itself be deemed a Lien.

“Limited Condition Transaction” shall mean (i) any Permitted Acquisition or other permitted Investment (A) in connection with which any Borrower or any other Restricted Subsidiary has entered into a binding contractual commitment and (B) the contractual commitment for which is not conditioned on the obtaining of, or availability of, third party financing and (ii) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment.

“Loan” means an extension of credit by a Lender to the Borrowers under Article II in the form of a Term Loan, a Revolving Credit Loan or a Swing Line Loan.

“Loan Documents” means, collectively, (a) this Agreement, (b) the Notes, (c) any Refinancing Amendment, Incremental Amendment, Extension Amendment or amendment to this Agreement in respect of Replacement Term Loans, (d) the Collateral Documents, (e) each Letter of Credit Application and (f) each Designated Borrower Request and Assumption Agreement.

“Loan Notice” means a written notice of (a) a Term Borrowing, (b) a Revolving Credit Borrowing, (c) a conversion of Loans from one Type to the other, or (d) a continuation of Eurocurrency Rate Loans or BBSY Rate Loans pursuant to Section 2.02(a) substantially in the form of Exhibit A-1.

“Loan Parties” means, collectively, (a) each Borrower and (b) each Guarantor.

“Management Agreement” means any management, advisory or similar agreement entered into from time to time among a Permitted Holder and Holdings, the Borrowers and/or the other Restricted Subsidiaries.

“Management Investors” means the members of the Board of Directors, officers and employees of Holdings, the Borrowers and/or their respective subsidiaries who are (directly or indirectly through one or more investment vehicles) investors in Holdings or any Holdings Parent on the Closing Date and, in each case, each of their respective spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees.

“Margin Stock” has the meaning set forth in Regulation U of the FRB, or any successor thereto.

“Market Capitalization” means an amount equal to (i) the total number of issued and outstanding shares of Equity Interests of Holdings or any direct or indirect parent of Holdings on the date of the declaration of making of the relevant Restricted Payment multiplied by (ii) the arithmetic mean of the closing prices per share of such Equity Interests for the 30 consecutive trading days immediately preceding the date of declaration or making of such Restricted Payment.

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

“Material Adverse Effect” means (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 rights and remedies of the Lenders, the Swing Line Lender, the L/C Issuers and the Administrative Agent, taken as a whole, under the Loan Documents or (iii) a material adverse effect on the ability of the Loan Parties, taken as a whole, to perform their material payment obligations under the Loan Documents.

“Material Debt Instrument” means any physical instrument evidencing obligations in excess of \$5,000,000.

“Material Intellectual Property” means intellectual property that is material to the business of the Borrowers and the other Restricted Subsidiaries, taken as a whole, as determined in good faith by the Lead Borrower.

“Material Real Property” means any fee-owned real property located in the United States or Australia that is owned by a Loan Party and which has a fair market value (estimated in good faith by the Lead Borrower) equal to or in excess of \$10,000,000 as of the time such property is acquired (or, if such property is owned by a Person on the date it becomes a Loan Party pursuant to Section 6.11, as of such date).

“Material Subsidiary” means any Restricted Subsidiary that is not an Immaterial Subsidiary.

“Maturity Date” means (i) with respect to the Revolving Credit Commitments and Swing Line Loans that have not been extended pursuant to Section 2.18, the date that is five (5) years after the Closing Date (the **‘Original Revolving Credit Maturity Date’**), (ii) with respect to the Initial Term Loans that have not been extended pursuant to Section 2.17, the date that is five (5) years after the Closing Date (the **‘Original Term Loan Maturity Date’**), (iii) with respect to any Extended Term Loans of a given Term Loan Extension Series, the final maturity date as specified in the applicable Extension Amendment accepted by the respective Lender or Lenders, (iv) with respect to any Extended Revolving Credit Commitments of a given Revolving Credit Loan Extension Series, the final maturity date as specified in the applicable Extension Amendment accepted by the respective Lender or Lenders, (v) with respect to any Refinancing Term Loans, Refinancing Revolving Credit Commitments or Refinancing Revolving Credit Loans, the final maturity date as specified in the applicable Refinancing Amendment, (vi) with respect to any New Term Loan, New Revolving Credit Commitments or New Revolving Credit Loans, the final maturity date as specified in the applicable Incremental Amendment and (vii) with respect to Replacement Term Loans, the final maturity date as specified in the applicable amendment to this Agreement in respect of such Replacement Term Loans; provided, in each case, that if such day is not a Business Day, the applicable Maturity Date shall be the Business Day immediately preceding such day.

“Maximum Rate” has the meaning specified in Section 10.10.

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

“Mortgage Policies” has the meaning specified in Section 6.13(b)(iv)(A)(A).

“Mortgages” means collectively, the deeds of trust, trust deeds, deeds to secure debt, hypothecs and mortgages made by the Loan Parties in favor of or for the benefit of the Collateral Agent on behalf of the Secured Parties in form and substance reasonably satisfactory to the Collateral Agent, executed, delivered and filed or recorded, as applicable, pursuant to Section 6.11 and Section 6.13.

“Multiemployer Plan” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Borrower or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Net Cash Proceeds” means:

(a) with respect to the Disposition of any asset by Holdings, the Borrowers or any of the other Restricted Subsidiaries or any Casualty Event, the excess, if any, of (i) the sum of cash and Cash Equivalents received in connection with such Disposition or Casualty Event (including any cash and Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and, with respect to any Casualty Event, any insurance proceeds or condemnation awards in respect of such Casualty Event actually received by or paid to or for the account of Holdings, the Borrowers or any of the other Restricted Subsidiaries) over (ii) the sum of (A) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness that is secured by the asset subject to such Disposition or Casualty Event and required to be repaid in connection with such Disposition or Casualty Event (other than Indebtedness under the Loan Documents, Incremental Equivalent Debt, Refinancing Equivalent Debt and any other Indebtedness secured by a Lien that is pari passu with or expressly subordinated to the Lien on the Collateral securing the Obligations), (B) the out-of-pocket fees and expenses (including attorneys’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees) actually incurred by Holdings, such Borrower or such other Restricted Subsidiary in connection with such Disposition or Casualty Event and restoration costs following a Casualty Event, (C) taxes (including Restricted Payments in respect thereof pursuant to Section 7.06) paid or reasonably estimated to be payable in connection therewith (including taxes imposed on, or that would be payable upon, the distribution or

repatriation of any such Net Cash Proceeds), (D) in the case of any Disposition or Casualty Event by a non-wholly owned Restricted Subsidiary, the pro-rata portion of the Net Cash Proceeds thereof (calculated without regard to this clause (D)) attributable to minority interests and not available for distribution to or for the account of Holdings, any Borrower or any other wholly owned Restricted Subsidiary as a result thereof, and (E) any reserve for adjustment in respect of (x) the sale price of such asset or assets established in accordance with GAAP or IFRS, as applicable, and (y) any liabilities associated with such asset or assets and retained by Holdings, any Borrower or any other Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, it being understood that “**Net Cash Proceeds**” shall include the amount of any reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in this clause (E); *provided* that no net cash proceeds calculated in accordance with the foregoing realized in any fiscal year shall constitute Net Cash Proceeds under this clause (a) in such fiscal year until the aggregate amount of all such net cash proceeds in such fiscal year shall exceed \$5,000,000 (and thereafter only net cash proceeds in excess of such amount shall constitute Net Cash Proceeds under this clause (a)); and

(b) with respect to the incurrence or issuance of any Indebtedness by Holdings, any Borrower or any other Restricted Subsidiary or any Permitted Equity Issuance, the excess, if any, of (A) the sum of the cash and Cash Equivalents received in connection with such incurrence or issuance over (B) the investment banking fees, underwriting discounts, commissions, costs and other out-of-pocket expenses and other customary expenses, incurred in connection with such incurrence or issuance.

“**Net Income**” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP or IFRS, as applicable.

“**Non-Bank Certificate**” has the meaning specified in [Section 3.01\(c\)\(i\)](#).

“**New Lenders**” means, collectively, New Revolving Credit Lenders and New Term Lenders.

“**New Refinancing Term Commitments**” has the meaning specified in [Section 2.15\(a\)](#).

“**New Revolving Credit Commitments**” has the meaning specified in [Section 2.14\(a\)](#).

“**New Revolving Credit Loans**” means any revolving credit loan made by New Revolving Credit Lenders pursuant to New Revolving Credit Commitments.

“**New Revolving Credit Lender**” means each existing Lender or Additional Lender that provides New Revolving Credit Commitments.

“**New Term Commitments**” has the meaning specified in [Section 2.14\(a\)](#).

“**New Term Lender**” means each existing Lender or Additional Lender that provides New Term Loans.

“**New Term Loans**” has the meaning specified in [Section 2.14\(a\)](#).

“**Non-Cash Compensation Liabilities**” means any non-cash liabilities recorded in connection with stock-based awards, partnership interest-based awards, awards of profits interests, deferred compensation awards and similar incentive based compensation awards or arrangements.

“**Non-Consenting Lender**” has the meaning specified in the penultimate paragraph of [Section 3.07](#).

“**Non-Defaulting Lender**” means and includes each Lender other than a Defaulting Lender.

“**Non-Extended Revolving Credit Commitment**” means, as to each Revolving Credit Lender, any Class of Revolving Credit Commitments of such Lender as in effect immediately prior to the date on which any extension of all or any part of any Class of Revolving Credit Commitments becomes effective pursuant to an Extension

Amendment, as such commitments of such Revolving Credit Lender may be adjusted from time to time in accordance with the terms of this Agreement (including as a result of permitted increases thereto, and reductions thereto, in accordance with the terms of this Agreement and adjusted for assignments effected in accordance with the provisions of Section 10.07(b)); provided that the Non-Extended Revolving Credit Commitment of any Lender shall exclude any portion of such commitments which have been extended pursuant to one or more Extension Amendments. Each Lender with a Non-Extended Revolving Credit Commitment shall be obligated to (a) make Revolving Credit Loans to the Borrowers pursuant thereto and in accordance with Section 2.01(b) and (b) purchase participations in L/C Obligations and Swing Line Loans as provided herein.

“Non-Extended Revolving Credit Loans” means a Revolving Credit Loan made by a Non-Extending Revolving Credit Lender pursuant to its Non-Extended Revolving Credit Commitment (and excluding Revolving Credit Loans to the extent originally made pursuant to a Non-Extended Revolving Credit Commitment which has been converted into an Extended Revolving Credit Commitment, which Revolving Credit Loans shall thereafter be Extended Revolving Credit Loans).

“Non-Extending Revolving Credit Lender” means, at any time, any Lender that has a Non-Extended Revolving Credit Commitment and/or related Revolving Credit Exposure incurred pursuant thereto at such time.

“Non-Loan Party” means any Restricted Subsidiary that is not a Loan Party.

“Nonrenewal Notice Date” has the meaning specified in Section 2.03(b)(ii).

“Note” means a Term Note, a Revolving Credit Note or a Swing Line Note, as the context may require.

“Not Otherwise Applied” means, with reference to any amount of net cash proceeds of any transaction or event that is proposed to be applied to a particular use or transaction, that such amount has not previously been (and is not simultaneously being) applied to anything other than that such particular use or transaction.

“Obligations” means all (a) advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and expenses that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws, or an Australian Insolvency Event in relation to any Australian Loan Party, naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and expenses are allowed claims in such proceeding, (b) for purposes of the Collateral Documents and Section 8.03 only, obligations of any Loan Party arising under any Secured Hedge Agreement and (c) for purposes of the Collateral Documents and Section 8.03 only, obligations under Secured Cash Management Agreements; provided that in the case of clauses (b) and (c), only to the extent that, and for so long as, the other Obligations are so secured or guaranteed, and any release of Collateral or Guarantees effected in a manner permitted by this Agreement shall not require the consent of holders of obligations under Secured Hedge Agreements or obligations under Secured Cash Management Agreements; provided further that the Obligations shall exclude all Excluded Swap Obligations. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents include the obligation (including guarantee obligations) to pay principal, interest, Letter of Credit commissions, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities and other amounts payable by any Loan Party under any Loan Document.

“OFAC” has the meaning specified in the definition of **“Sanctions Laws and Regulations.”**

“Offered Amount” has the meaning specified in Section 2.05(a)(v)(D)(1).

“Offered Discount” has the meaning specified in Section 2.05(a)(v)(D)(1).

“Offshore Associate” means an Associate (a) which is an non-resident of Australia and does not become a lender or receive a payment in carrying on a business in Australia at or through a permanent establishment of the Associate in Australia, or (b) which is a resident of Australia and which becomes a lender or receives a payment in carrying on a business in a country outside Australia at or through a permanent establishment of the Associate in that country, and which does not become a lender in the capacity of a clearing house, custodian, funds manager or responsible entity of a registered scheme or which does not receive a payment in the capacity of a clearing house, paying agent, custodian, funds manager or responsible entity of a registered scheme.

“OID” means original issue discount.

“Organization Documents” means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction, including any constitutions or articles of association); (b) with respect to any limited liability company, the certificate or articles of formation, registration or organization and operating agreement (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction, including any constitutions or articles of association); and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation, registration or organization and any agreement, instrument, filing or notice with respect thereto filed or issued in connection with its formation, registration or organization with or by the applicable Governmental Authority in the jurisdiction of its formation, registration or organization and, if applicable, any certificate or articles of formation, registration or organization of such entity (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction).

“Original Revolving Credit Maturity Date” has the meaning specified in the definition of **“Maturity Date.”**

“Original Term Loan Maturity Date” has the meaning specified in the definition of **“Maturity Date.”**

“Other Allocable Share” means, in the case of any determination with respect to any Extending Revolving Credit Lender (or its Extended Revolving Credit Commitment (and related Revolving Credit Exposure)) or any Non-Extending Revolving Credit Lender (or its Non-Extended Revolving Credit Commitment (and related Revolving Credit Exposure)), at any time on or after the date of any applicable Extension Amendment, a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Extended Revolving Credit Commitment or the Non-Extended Revolving Credit Commitment, as the case may be, of such Lender at such time and the denominator of which is the aggregate amount of all Extended Revolving Credit Commitments or all Non-Extended Revolving Credit Commitments, as the case may be, at such time; provided that if such Extended Revolving Credit Commitment or Non-Extended Revolving Credit Commitment, as the case may be, has been terminated, then the Other Allocable Share of each applicable Lender shall be determined based on the Other Allocable Share of such Lender immediately prior to such termination and after giving effect to any subsequent assignments made pursuant to the terms hereof.

“Other Applicable Indebtedness” has the meaning specified in Section 2.05(b)(ii)(A).

“Other Taxes” has the meaning specified in Section 3.01(e).

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

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

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

“Participating Lender” has the meaning specified in Section 2.05(a)(v)(C)(1).

“PATRIOT Act” has the meaning specified in the definition of “**Sanctions Laws and Regulations.**”

“Payment” has the meaning assigned to it in Section 9.03(b).

“Payment Notice” has the meaning assigned to it in Section 9.03(b).

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Plan” means any “**employee pension benefit plan**” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan or a Foreign Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Borrower or any ERISA Affiliate or to which any Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time in the preceding five plan years.

“Permits” means, with respect to any Person, any permit, approval, consent, authorization, license, approval, registration, accreditation, certificate, concession, grant, franchise, variance or permission or similar authorization from any Governmental Authority.

“Permitted Acquisition” has the meaning specified in Section 7.02(i).

“Permitted Equity Issuance” means any sale or issuance of any Qualified Equity Interests of Holdings or any direct or indirect parent of Holdings, in each case to the extent not prohibited hereunder.

“Permitted Holder” means any of (i) Summit, (ii) all other equity holders (including, without limitation, rollover investors and co-investors) of Holdings or any direct or indirect parent thereof on the Closing Date and their respective affiliates, (iii) the Management Investors, (iv) the Co-Investors, (v) the permitted transferees of any of the foregoing Persons and (vi) any “group” (within the meaning of Section 13(d) or Section 14(d) of the Exchange Act) of which any of the foregoing are members; provided that in the case of such “group” and without giving effect to the existence of such “group” or any other “group,” such Persons specified in clauses (i), (ii), (iii), (iv) and/or (v) above, collectively, have beneficial ownership, directly or indirectly, of more than 50% of the aggregate ordinary voting power for election of directors represented by the issued and outstanding Equity Interests of Holdings held, directly or indirectly, by such “group.”

“Permitted Junior Secured Refinancing Debt” has the meaning specified in Section 2.15(i).

“Permitted Pari Passu Secured Refinancing Debt” has the meaning specified in Section 2.15(i).

“Permitted Refinancing” means, with respect to any Person, any modification, refinancing, refunding, replacement, renewal or extension of any Indebtedness of such Person; provided that (a) the principal amount (or accredited value, if applicable) thereof does not exceed the principal amount (or accredited value, if applicable) of the Indebtedness so modified, refinanced, refunded, replaced, renewed or extended except by an amount equal to unpaid accrued interest, fees, premium (including call and tender premiums) thereon, defeasance costs, and fees and expenses incurred (including OID, upfront fees and similar items), in connection with such modification, refinancing, refunding, replacement, renewal or extension and by an amount equal to any existing commitments unutilized thereunder, (b) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(b) and Section 7.03(e), such modification, refinancing, refunding, replacement, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended, (c) if such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is Junior Financing, (i) to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding,

replacement, renewal, or extension is subordinated in right of payment to the Obligations on terms, taken as a whole, at least as favorable to the Lenders, in all material respects, as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended, (ii) to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed, or extended is secured by Liens, (x) such modification, refinancing, refunding, replacement, renewal or extension is unsecured, is not secured by any Liens that do not also secure the Obligations or is secured by Liens otherwise permitted under Section 7.01 to the extent the Indebtedness being modified, refinanced, refunded, replaced or extended is then permitted to be secured by such Lien and (y) to the extent that such Liens are contractually subordinated to the Liens securing the Obligations, such modification, refinancing, refunding, replacement, renewal or extension is either unsecured or is secured (A) by Liens that are contractually subordinated to the Liens securing the Obligations on terms, taken as a whole, at least as favorable to the Lenders, in all material respects, as those contained in the documentation (including any intercreditor or similar agreements) governing the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended or (B) by Liens otherwise permitted under Section 7.01 to the extent the Indebtedness being modified, refinanced, refunded, replaced or extended is then permitted to be secured by such Liens, (iii) to the extent such Indebtedness being modified, refinanced, refunded, replaced, renewed or extended is unsecured, such modification, refinancing, refunding, replacement, renewal or extension shall also be unsecured (except to the extent secured by Liens that are separately permitted under Section 7.01), (iv) the covenants and defaults of any such modified, refinanced, refunded, replaced, renewed or extended Indebtedness with an original principal amount outstanding in excess of the Threshold Amount (taken as a whole) are (x) not materially more restrictive with respect to the Borrowers and the other Restricted Subsidiaries, as reasonably determined by the Lead Borrower in good faith, than the covenants and defaults of the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended or (y) reflective of market terms and conditions for the type of Indebtedness incurred or issued at the time of issuance or incurrence thereof (as determined by the Lead Borrower in good faith); *provided* that a certificate of the Lead Borrower delivered to the Administrative Agent at least three (3) Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material covenants of such Indebtedness or drafts of the documentation relating thereto, stating that the Lead Borrower has reasonably determined in good faith that such covenants and defaults satisfy the foregoing requirement shall be conclusive evidence that such covenants and defaults satisfy the foregoing requirement unless the Administrative Agent notifies the Lead Borrower within such three (3) Business Day period that it disagrees with such determination (including a reasonably detailed description of the basis upon which it disagrees) and (v) such modification, refinancing, refunding, replacement, renewal or extension is incurred by the Person who is the obligor of the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended and no additional obligors become liable for such Indebtedness except to the extent such Person guaranteed the Indebtedness being modified, refinanced, refunded, replaced, renewed or extended (or such guarantee would have otherwise been permitted under Section 7.03) and (d) in the case of any secured Indebtedness incurred or issued in a Permitted Refinancing in respect of any Incremental Equivalent Debt, any Permitted Pari Passu Secured Refinancing Debt, any Permitted Junior Secured Refinancing Debt or any Permitted Refinancing in respect of any of the foregoing, in each case, such Indebtedness incurred or issued in such Permitted Refinancing is secured only by assets pursuant to one or more security agreements permitted by and subject to a First Lien Intercreditor Agreement, a Second Lien Intercreditor Agreement or, in each case, other customary intercreditor arrangements reasonably acceptable to the Lead Borrower and the Administrative Agent, as applicable. Any reference to a Permitted Refinancing in this Agreement or any other Loan Document shall be interpreted to mean (a) a Permitted Refinancing of the subject Indebtedness and (b) any further refinancings constituting a Permitted Refinancing of the Indebtedness resulting from a prior Permitted Refinancing.

“Permitted Transferees” means (a) in the case of any of Summit Partners or any Co-Investor, (i) any Affiliate of any of Summit Partners or any Co-Investor (other than any portfolio operating company of any of the foregoing), (ii) any managing director, general partner, limited partner, director, officer or employee of any of Summit Partners or any Co-Investor or any of their respective Affiliates (collectively, the “**Summit/Co-Investor Associates**”), (iii) the heirs, executors, administrators, testamentary trustees, legatees or beneficiaries of any **Summit/Co-Investor Associate** and (iv) any trust, the beneficiaries of which, or a corporation or partnership, the stockholders or partners of which, include only a **Summit/Co-Investor Associate**, his or her spouse, parents, siblings, members of his or her immediate family (including adopted children and step children) and/or direct lineal descendants; and (b) in the case of any Management Investor, (i) his or her executor, administrator, testamentary trustee, heirs, legatee or beneficiaries, (ii) his or her spouse, parents, siblings, members of his or her immediate family (including adopted children and step children) and/or direct lineal descendants or (iii) a trust, the beneficiaries of which, or a corporation or partnership, the stockholders or partners of which, include only a Management Investor and his or her spouse, parents, siblings, members of his or her immediate family (including adopted and step children) and/or direct lineal descendants.

"Permitted Unsecured Refinancing Debt" has the meaning specified in [Section 2.15\(i\)](#).

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership (including any exempted limited partnership), Governmental Authority or other entity, irrespective of whether they have separate legal personality in their jurisdiction of incorporation, registration or formation.

"Pledged Collateral" has the meaning specified in the Security Agreement.

"PPSA" means the *Personal Property Securities Act 2009* (Cth).

"Prime Rate" means, as of any date of determination, the rate last quoted by The Wall Street Journal (or another national publication reasonably selected by the Administrative Agent) as the "Prime Rate" in the United States or, if The Wall Street Journal (or such other national publication selected by the Administrative Agent) ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) (or any comparable successor publication) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as reasonably determined by Administrative Agent) or any similar release by the Federal Reserve Board (as reasonably determined by Administrative Agent).

"Pro Forma Basis" and **"Pro Forma Effect"** mean, with respect to compliance with any test or covenant or calculation hereunder, or the calculation of Consolidated EBITDA hereunder, the determination or calculation of such test, covenant, ratio or Consolidated EBITDA (including in connection with Specified Transactions) in accordance with [Section 1.08](#).

"Pro Rata Share" means, with respect to each Lender under any one or more applicable Facilities or Classes at any time, a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Commitment and, if applicable and without duplication, Term Loans of such Lender under the applicable Facility or Facilities (or Class or Classes, as the case may be) at such time and the denominator of which is the amount of the Aggregate Commitments of all Lenders under the applicable Facility or Facilities (or Class or Classes, as the case may be) and, if applicable and without duplication, Term Loans of all Lenders under the applicable Facility or Facilities (or Class or Classes, as the case may be) at such time; *provided* that, in the case of the Revolving Credit Commitments of any Facility or Class, if such Commitment has been terminated, then the Pro Rata Share of each Lender shall be determined based on the Pro Rata Share of such Lender immediately prior to such termination and after giving effect to any subsequent assignments made pursuant to the terms hereof.

"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).

"QFC Credit Support" has the meaning assigned to it in [Section 10.19](#).

"Qualified Equity Interests" means any Equity Interests that are not Disqualified Equity Interests.

"Qualifying Lender" has the meaning specified in [Section 2.05\(a\)\(v\)\(D\)\(2\)](#).

"Quarterly Financial Statements" means the unaudited consolidated balance sheets of Excelerate, L.P. and its Subsidiaries as of June 30, 2021 and the related (i) consolidated statements of income or operations (as applicable) for such fiscal quarter and for the portion of the fiscal year then ended and (ii) consolidated statements of cash flows for the portion of the fiscal year then ended.

"Reference Date" has the meaning specified in the definition of "Available Amount."

"Refinanced Debt" has the meaning specified in [Section 2.15\(a\)](#).

“Refinanced Loans” has the meaning specified in Section 2.15(i).

“Refinancing” has the meaning specified in the preliminary statements to this Agreement.

“refinancing” has the meaning defined in Section 1.09(a).

“Refinancing Amendment” has the meaning specified in Section 2.15(f).

“Refinancing Commitments” has the meaning specified in Section 2.15(a).

“Refinancing Equivalent Debt” has the meaning specified in Section 2.15(i).

“Refinancing Facility Closing Date” has the meaning specified in Section 2.15(d).

“Refinancing Lenders” has the meaning specified in Section 2.15(c).

“Refinancing Loan” has the meaning specified in Section 2.15(b).

“Refinancing Loan Request” has the meaning specified in Section 2.15(a).

“Refinancing Revolving Credit Commitments” has the meaning specified in Section 2.15(a).

“Refinancing Revolving Credit Lender” has the meaning specified in Section 2.15(c).

“Refinancing Revolving Credit Loan” has the meaning specified in Section 2.15(b).

“Refinancing Term Commitments” has the meaning specified in Section 2.15(a).

“Refinancing Term Lender” has the meaning specified in Section 2.15(c).

“Refinancing Term Loan” has the meaning specified in Section 2.15(b).

“Refunding Capital Stock” has the meaning specified in Section 7.06(m)(i).

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

“Regulation S-X” means Regulation S-X under the Securities Act.

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

“Related Indemnified Person” of an Indemnitee means (a) any Controlling Person or Controlled Affiliate of such Indemnitee, (b) the respective directors, officers, members, or employees of such Indemnitee or any of its Controlling Persons or Controlled Affiliates and (c) the respective agents of such Indemnitee or any of its Controlling Persons or Controlled Affiliates, in the case of this clause (c), acting at the instructions of such Indemnitee, Controlling Person or such Controlled Affiliate; *provided* that each reference to a Controlled Affiliate or Controlling Person in this definition shall pertain to a Controlled Affiliate or Controlling Person involved in the negotiation or syndication of the Facilities.

“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 IV) and other consultants and agents of or to such Person or any of its Affiliates.

“Relevant Governmental Body” means (i) with respect to a Benchmark Replacement in respect of Loans denominated in Dollars, the Federal Reserve Board and/or the NYFRB, or a committee officially endorsed or convened by the Federal Reserve Board and/or the NYFRB or, in each case, any successor thereto, and (ii) with respect to a Benchmark Replacement in respect of Loans denominated in Australian Dollars, (a) the central bank for the currency in which such Benchmark Replacement is denominated or any central bank or other supervisor which is responsible for supervising either (1) such Benchmark Replacement or (2) the administrator of such Benchmark Replacement or (b) any working group or committee officially endorsed or convened by (1) the central bank for the currency in which such Benchmark Replacement is denominated, (2) any central bank or other supervisor that is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement, (3) a group of those central banks or other supervisors or (4) the Financial Stability Board or any part thereof.

“Relevant Rate” means (i) with respect to any Eurocurrency Borrowing denominated in Dollars, USD LIBOR, or (ii) with respect to any Borrowing denominated in Australian Dollars, BBSY Bid, as applicable.

“Replaced Term Loans” has the meaning specified in Section 10.01(b)(iii).

“Replacement Term Loans” has the meaning specified in Section 10.01(b)(iii).

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

“Representative” means, with respect to any series of Indebtedness and any Permitted Refinancing of the foregoing, the trustee, administrative agent, collateral agent, security agent or similar agent or representative under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Term Loans or Revolving Credit Loans, a Loan Notice, (b) with respect to a Swing Line Loan, a Swing Line Loan Notice and (c) with respect to an L/C Credit Extension, a Letter of Credit Application.

“Required Facility Lenders” means, with respect to any Facility on any date of determination, Lenders having more than 50% of the sum of (i) the Total Outstandings under such Facility (with the aggregate Dollar Amount as of such date of each Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans under such Facility being deemed “held” by such Lender for purposes of this definition) and (ii) the aggregate unused Commitments under such Facility; provided that the unused Commitments of, and the portion of the Total Outstandings under such Facility or Facilities held, or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of the Required Facility Lenders; *provided that to the same extent set forth in*Section 10.07(i) *with respect to determination of Required Lenders, the Loans of any Affiliated Lender shall in each case be excluded for purposes of making a determination of Required Facility Lenders.*

“Required Lenders” means, as of any date of determination, Lenders having more than 50% of the sum of the (a) Total Outstandings (with the aggregate Dollar Amount as of such date of each Lender’s risk participation and funded participation in L/C Obligations and Swing Line Loans under such Facility being deemed “held” by such Lender for purposes of this definition), (b) aggregate unused Term Commitments and (c) aggregate unused Revolving Credit Commitments; provided that the unused Term Commitment and unused Revolving Credit Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; *provided that the Loans of any Affiliated Lender shall in each case be excluded for purposes of making a determination of Required Lenders to the extent set forth in*Section 10.07(i).

“Required Revolving Credit Lenders” means, as of any date of determination, Revolving Credit Lenders having more than 50% of the sum of the Dollar Amount of (a) the Revolving Credit Commitments or (b) after the termination of Revolving Credit Commitments, the Revolving Credit Exposure; *provided that the Revolving Credit Commitment and Revolving Credit Exposure of any Defaulting Lender shall be excluded for the purposes of making a determination of Required Revolving Credit Lenders.*

“Required Term Lenders” means, as of any date of determination, Term Lenders having more than 50% of the sum of the Outstanding Amount of Term Loans; provided that the unused Term Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Term Lenders; *provided, further, that to the same extent set forth in*Section 10.07(j)*with respect to determination of Required Lenders, the Loans of any Affiliated Lender shall in each case be excluded for purposes of making a determination of Required Term Lenders.*

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

“Responsible Officer” means the chief executive officer, president, any vice president, chief financial officer, chief operating officer, chief administrative officer, authorized signatory or treasurer or other similar officer or Person performing similar functions of a Loan Party (or, in the case of any such Person that is a Foreign Subsidiary, director or managing partner or similar official). With respect to any document delivered by a Loan Party on the Closing Date, Responsible Officer shall include any authorized signatory, secretary or assistant secretary of such Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, limited liability company, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. Unless otherwise specified, all references herein to a “**Responsible Officer**” shall refer to a Responsible Officer of the Lead Borrower.

“Restricted” means, when referring to cash or Cash Equivalents of Holdings or any of its Restricted Subsidiaries, that such cash or Cash Equivalents (i) appear (or would be required to appear) as “restricted” on a consolidated balance sheet of Holdings (unless such appearance is related to the Loan Documents (or the Liens created thereunder) or other Indebtedness permitted under Section 7.03 which is permitted to be secured by a Lien on the Collateral) or (ii) are subject to any Lien (other than Liens permitted by Section 7.01).

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of any Borrower or any of the other Restricted Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to any Borrower’s or any other Restricted Subsidiary’s equity holders, partners or members (or the equivalent Persons thereof), other than (i) the payment of compensation in the ordinary course of business to holders of any such Equity Interests who are employees or service providers of Holdings (or any direct or indirect parent thereof) or any Subsidiary solely in their capacity as employees or service providers and (ii) other than payments of intercompany indebtedness permitted under this Agreement, unless such payments are made in the form of dividends or other distributions that would otherwise be classified as Restricted Payments hereunder.

“Restricted Subsidiary” means any Subsidiary of Holdings other than an Unrestricted Subsidiary.

“Retired Capital Stock” has the meaning specified in Section 7.06(m)(i).

“Return” means, with respect to any Investment, any dividend, distribution, interest, fee, premium, return of capital, repayment of principal, income, profit (from a disposition or otherwise) and any other amount received or realized in respect thereof.

“Revolving Commitment Increase” has the meaning specified in Section 2.14(a).

“Revolving Credit Borrowing” means a borrowing consisting of Revolving Credit Loans of the same Class and Type and, in the case of Eurocurrency Rate Loans and BBSY Rate Loans, having the same Interest Period made by each of the Revolving Credit Lenders pursuant to Section 2.01(b) and includes (a) the making of a Refinancing Revolving Credit Loan by a Lender or an Additional Lender to the Borrowers pursuant to Section 2.15 and the applicable Refinancing Amendment, (b) the making of an Extended Revolving Credit Loan of a given Revolving Credit Loan Extension Series by a Lender to the Borrowers pursuant to Section 2.18 and the applicable Extension Amendment and (c) the making of a New Revolving Credit Loan by a Lender or an Additional Lender to the Borrowers pursuant to Section 2.14 and the applicable Incremental Amendment.

“Revolving Credit Commitment” means, as to each Revolving Credit Lender, its obligation to (a) make Revolving Credit Loans to the Borrowers pursuant to Section 2.01(b), (b) purchase participations in L/C Obligations in respect of Letters of Credit and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender’s name on Schedule 2.01 under the caption **“Revolving Credit Commitment”** or in the Assignment and Assumption pursuant to which such Lender takes an assignment of a Revolving Credit Commitment pursuant hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement and includes an Extended Revolving Credit Commitment, a Non-Extended Revolving Credit Commitment, a Refinancing Revolving Credit Commitment and/or any Class of New Revolving Credit Commitment effected pursuant to Section 2.14, as the context may require. The initial aggregate amount of the Revolving Credit Commitments is \$50,000,000.

“Revolving Credit Exposure” means, at any time, as to each Revolving Credit Lender, the sum of the outstanding principal amount of such Revolving Credit Lender’s Revolving Credit Loans at such time and its Pro Rata Share, or other applicable share provided for under this Agreement, of the L/C Obligations and Swing Line Loans at such time.

“Revolving Credit Extension Election” has the meaning specified in Section 2.18(b).

“Revolving Credit Facility” means, at any time, the aggregate amount of the Revolving Credit Lenders’ Revolving Credit Commitments at such time.

“Revolving Credit Lender” means, at any time, any Lender that has a Revolving Credit Commitment and/or Revolving Credit Exposure at such time.

“Revolving Credit Loan” means (i) any revolving credit loan made by the Revolving Credit Lenders pursuant to the Revolving Credit Commitments of the Revolving Credit Lenders on the Closing Date pursuant to Section 2.01(b) and (ii) includes any New Revolving Credit Loans, Refinancing Revolving Credit Loans and Extended Revolving Credit Loans effected pursuant to Section 2.14, Section 2.15 or Section 2.18, as applicable, and the related Incremental Amendment, Refinancing Amendment or Extension Amendment, as applicable.

“Revolving Credit Loan Extension Series” has the meaning specified in Section 2.18(a).

“Revolving Credit Note” means a promissory note of the Borrowers payable to any Revolving Credit Lender or its registered assigns, in substantially the form of Exhibit D-2 hereto, evidencing the aggregate Indebtedness of the Borrowers to such Revolving Credit Lender resulting from the Revolving Credit Loans made or otherwise held by such Revolving Credit Lender.

“Revolving Credit Percentage” of any Revolving Credit Lender at any time shall mean a fraction (expressed as a percentage) the numerator of which is the Revolving Credit Commitment for the Revolving Credit Facility (or, after the date of any Refinancing Amendment, Extension Amendment or Incremental Amendment, the applicable Class or Facility (or Classes or Facilities)) of such Revolving Credit Lender at such time and the denominator of which is the aggregate Revolving Credit Commitments of all Revolving Credit Lenders for the Revolving Credit Facility (or, after the date of any Refinancing Amendment, Extension Amendment or Incremental Amendment, the applicable Class or Facility (or Classes or Facilities)) at such time; *provided* that if the Revolving Credit Percentage of any Revolving Credit Lender is to be determined after all Revolving Credit Commitments for the Revolving Credit Facility (or, after the date of any Refinancing Amendment, Extension Amendment or Incremental Amendment, the applicable Class or Facility (or Classes or Facilities)) have been terminated, then the Revolving Credit Percentage of such Revolving Credit Lender shall be determined immediately prior (and without giving effect) to such termination (but giving effect to assignments made thereafter in accordance with the terms hereof); *provided, further*, that in the case of Section 2.19 when a Defaulting Lender shall exist, **“Revolving Credit Percentage”** shall mean the percentage of the aggregate Revolving Credit Commitments for the Revolving Credit Facility (or, after the date of any Refinancing Amendment, Extension Amendment or Incremental Amendment, the applicable Class or Facility (or Classes or Facilities)) (disregarding any Defaulting Lender’s Revolving Credit Commitment) represented by such Lender’s Revolving Credit Commitment.

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto.

“Same Day Funds” means disbursements and payments in immediately available funds.

“Sanctions Laws and Regulations” means (i) any sanctions or requirements imposed by, or based upon the obligations or authorities set forth in, the Executive Order, the USA PATRIOT Act of 2001 (the “**PATRIOT Act**”), the U.S. Trading with the Enemy Act (50 U.S.C. App. §§ 1 et seq.) or any other law, regulation or executive order relating thereto administered or promulgated by the U.S. Department of the Treasury Office of Foreign Assets Control (“**OFAC**”) or (ii) any sanctions administered or enforced by the Commonwealth of Australia (including the Australian Department of Foreign Affairs and Trade, the Australian Sanctions Office, or any other governmental institutions within the Commonwealth of Australia which administer sanctions).

“SDN” has the meaning specified in the definition of **“Designated Person.”**

“SDN List” has the meaning specified in the definition of **“Designated Person.”**

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

“Second Lien Intercreditor Agreement” means an intercreditor agreement substantially in the form of Exhibit R hereto ((which agreement in such form, or with changes thereto that are immaterial to the interests of the Lenders, the Administrative Agent is authorized to enter into) together with any changes material to the interests of the Lenders, which such changes shall be posted to the Lenders not less than five (5) Business Days before execution thereof and, if the Required Lenders shall not have objected in writing to such changes within five (5) Business Days after posting, then the Required Lenders shall be deemed to have agreed that the Administrative Agent’s entry into such intercreditor agreement (with such changes) is reasonable and to have consented to such intercreditor agreement (with such changes) and to the Administrative Agent’s execution thereof.

“Secured Cash Management Agreement” means any Cash Management Obligation permitted under Article VII that is entered into by and between Holdings, any Borrower or any Restricted Subsidiary (and to the extent such Person is not a Borrower, the Lead Borrower as joint and several primary obligor thereunder) and any Cash Management Bank and designated by the Lead Borrower and the Cash Management Bank in writing to the Administrative Agent as a **“Secured Cash Management Agreement”** (which designation shall be deemed to have been made for any Cash Management Obligations outstanding on the Closing Date). The designation of any Cash Management Obligations as a **“Secured Cash Management Agreement”** shall not create in favor of such Cash Management Bank any rights in connection with the management or release of Collateral or the obligations of any Loan Party under the Loan Documents.

“Secured Hedge Agreement” means any Swap Contract permitted under Article VII that is entered into by and between any Loan Party (and to the extent such Loan Party is not a Borrower, the Lead Borrower as joint and several primary obligor thereunder) and any Hedge Bank and designated by the Lead Borrower and the Hedge Bank in writing to the Administrative Agent as a **“Secured Hedge Agreement”**. The designation of any Swap Contract as a **“Secured Hedge Agreement”** as provided above shall not create in favor of such Hedge Bank any rights in connection with the management or release of Collateral or the obligations of any Loan Party under the Loan Documents.

“Secured Parties” means, collectively, the Administrative Agent, the Collateral Agent, the Lenders, each L/C Issuer, each Hedge Bank, each Cash Management Bank, any Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.05(b).

“Securities Act” means the Securities Act of 1933.

“Security Agreement” means, collectively, (i) the U.S. Security Agreement executed by the Loan Parties, substantially in the form of Exhibit G-1, together with any Security Agreement Supplement executed and delivered pursuant to Section 6.11, as amended, restated, amended and restated, supplemented or otherwise modified from time to time, and (ii) the Australian Security Agreement executed by the applicable Loan Parties, substantially in the form of Exhibit G-2, together with any Security Agreement Supplement executed and delivered pursuant to Section 6.11, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

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

“Senior Indebtedness” has the meaning specified in Section 10.01(ix).

“SOFR” means, for any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate) on the website of the Federal Reserve Bank of New York, currently at <http://www.newyorkfed.org>. (or any successor source for the secured overnight financing rate identified as such by the administrator of the secured overnight financing rate from time to time), on the immediately succeeding Business Day.

“Solicited Discount Proration” has the meaning specified in Section 2.05(a)(v)(D)(2).

“Solicited Discounted Prepayment Amount” has the meaning specified in Section 2.05(a)(v)(D)(1).

“Solicited Discounted Prepayment Notice” means a written notice of the Lead Borrower of Solicited Discounted Prepayment Offers made pursuant to Section 2.05(a)(v)(D) substantially in the form of Exhibit L.

“Solicited Discounted Prepayment Offer” means the irrevocable written offer by each Lender, substantially in the form of Exhibit M, submitted following the Auction Agent’s receipt of a Solicited Discounted Prepayment Notice.

“Solicited Discounted Prepayment Response Date” has the meaning specified in Section 2.05(a)(v)(D)(1).

“Solvent” and **“Solvency”** mean, with respect to any Person on any date of determination, that on such date (a) the present fair value on a going concern basis of the assets of such Person and its Restricted Subsidiaries, on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise, (b) the present fair saleable value on a going concern basis of the property of such Person and its Restricted Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured in the ordinary course, (c) such Person and its Restricted Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured in the ordinary course and (d) such Person and its Restricted Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

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

“Specified Discount” has the meaning specified in Section 2.05(a)(v)(B)(1).

“Specified Discount Prepayment Amount” has the meaning specified in Section 2.05(a)(v)(B)(1).

“Specified Discount Prepayment Notice” means a written notice of the Lead Borrower of an offer of Specified Discount prepayment made pursuant to Section 2.05(a)(v)(B) substantially in the form of Exhibit N.

“Specified Discount Prepayment Response” means the irrevocable written response by each Lender, substantially in the form of Exhibit O, to a Specified Discount Prepayment Notice.

“Specified Discount Prepayment Response Date” has the meaning specified in Section 2.05(a)(v)(B)(1).

“Specified Discount Proration” has the meaning specified in Section 2.05(a)(v)(B)(2).

“Specified Equity Contribution” means any, direct or indirect, cash contribution to the common equity or capital of any Borrower and/or any purchase of, or investment in, any Qualified Equity Interest of any Borrower, in each case, to the extent designated as a “**Specified Equity Contribution**” in accordance with Section 8.04 and not constituting an “**Excluded Contribution**” or included at any time in the calculation of “**Available Amount**”.

“Specified Legal Expenses” means, to the extent not constituting an extraordinary, non-recurring or unusual loss, charge or expense, all attorneys’ and experts’ fees and expenses and all other costs, liabilities (including all damages, penalties, fines and indemnification and settlement payments) and expenses paid or payable in connection with any threatened, pending, completed or future claim, demand, action, suit, proceeding, inquiry or investigation (whether civil, criminal, administrative, governmental or investigative) either (i) arising from, or related to, facts and circumstances existing on or prior to the Closing Date or (ii) arising out of or related to securities law (other than in connection with the Transaction).

“Specified Representations” means those representations and warranties made with respect to the Loan Parties by the Borrowers and, to the extent applicable, Holdings in Section 5.01(a) (with respect to organizational existence of the Loan Parties only), Section 5.01(b)(ii), Section 5.02(a), Section 5.02(b)(A) (limited to the execution, delivery, and performance of the Loan Documents, incurrence of the Loans hereunder and the granting of the guarantees, as applicable, and the security interests in respect thereof), Section 5.04, Section 5.13, Section 5.16, Section 5.18(h) (only with respect to the use of proceeds of the Loans on the Closing Date), the last sentence of Section 5.18(c) (only with respect to the use of proceeds of the Loans on the Closing Date), and Section 5.19 (subject to the proviso at the end of Section 4.01(a)) and with respect to the Australian Loan Parties, in Section 5.22 and Section 5.23; provided that, in the event that the Specified Representations are required to be made in connection with any Incremental Amendment, any reference in this definition to the Closing Date or to the use of proceeds of the Loans on the Closing Date shall be deemed to be modified to refer to the closing date of the relevant Incremental Amendment, and the Loans to be incurred thereunder, as the case may be.

“Specified Transaction” means any Investment that results in a Person becoming a Restricted Subsidiary, any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary, any Permitted Acquisition, any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of Holdings, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or any Disposition of a business unit, line of business or division of Holdings, any Borrower or any other Restricted Subsidiary, in each case whether by merger, consolidation, amalgamation or otherwise, or any incurrence or repayment of Indebtedness, including any New Term Loans or New Revolving Credit Loans (other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), Restricted Payment, the obtaining of any New Revolving Credit Commitments or other event that by the terms of this Agreement requires Consolidated EBITDA or a financial ratio or test to be calculated on a “**Pro Forma Basis**” or after giving “**Pro Forma Effect**.”

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the FRB to which the Administrative Agent is subject with respect to the Adjusted Eurocurrency Rate, for Eurocurrency Rate funding (currently referred to as “**Eurocurrency Liabilities**” in Regulation D of the FRB). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurocurrency Rate Loans shall be deemed to constitute Eurocurrency Rate funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“subject transaction” has the meaning specified in Section 1.09(a).

“Submitted Amount” has the meaning specified in Section 2.05(a)(v)(C)(1).

“Submitted Discount” has the meaning specified in Section 2.05(a)(v)(C)(1).

“Subordinated Indebtedness” means any Indebtedness of a Person that by its terms (or by the terms of any applicable intercreditor or subordination agreement) is subordinated in right of payment to the Obligations under the Loan Documents.

“Subsequent Transaction” shall have the meaning provided in Section 1.08(e).

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

“Subsidiary Guarantor” means any Guarantor other than Holdings.

“Subsidiary Member” means a Subsidiary Member (as defined in the Australian Tax Act) of a Consolidated Group.

“Summit” means any of Summit Partners, any of its Affiliates, and any funds, investment vehicles or partnerships managed, advised or sub-advised by any of them or any of their respective Affiliates (other than any portfolio operating company of any of the foregoing).

“Summit Partners” means any of Summit Partners, L.P., any of its Affiliates, and any funds, investment vehicles or partnerships managed, advised or sub-advised by any of them or any of their respective affiliates (other than any portfolio operating company of any of the foregoing).

“Supplemental Administrative Agent” and **“Supplemental Administrative Agents”** have the meanings specified in Section 9.12(a).

“Supported QFC” has the meaning assigned to it in Section 10.19.

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

“Swap Obligation” means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act.

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

“Swing Line Borrowing” means a borrowing of a Swing Line Loan pursuant to Section 2.04.

“Swing Line Facility” means the revolving credit facility made available by the Swing Line Lender pursuant to Section 2.04.

“Swing Line Lender” means KeyBank in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

“Swing Line Loan” has the meaning specified in Section 2.04(a).

“Swing Line Loan Notice” means a written notice of a Swing Line Borrowing pursuant to Section 2.04(b) substantially in the form of Exhibit A-2.

“Swing Line Note” means a promissory note of the Borrowers payable to any Swing Line Lender or its registered assigns, in substantially the form of Exhibit D-3, evidencing the aggregate Indebtedness of the Borrowers to such Swing Line Lender resulting from the Swing Line Loans made by such Swing Line Lender.

“Swing Line Sublimit” means an amount equal to the lesser of (a) \$20,000,000 and (b) the aggregate amount of the Revolving Credit Commitments. The Swing Line Sublimit is part of, and not in addition to, the Revolving Credit Commitments.

“Tax Funding Agreement” means a tax funding agreement between the members of a Consolidated Group which includes:

(a) reasonably appropriate arrangements for the funding of tax payments by the Head Company of the Consolidated Group having regard to the position of each member of the Consolidated Group; and

(b) an undertaking from each member of the Consolidated Group to compensate each other member adequately for loss of tax attributes (including tax losses and tax offsets) as a result of being a member of the Consolidated Group; and

(c) reasonably appropriate arrangements to ensure payments by members of the Consolidated Group to the Head Company of the Consolidated Group under the agreement are used to discharge relevant Group Liabilities of the Consolidated Group.

The Tax Funding Agreement may be contained in the same document as the Tax Sharing Agreement.

“Tax Sharing Agreement” means any agreement between the members of a Consolidated Group that satisfies the requirements of section 721-25 of the Australian Tax Act for being a valid tax sharing agreement and complies with the Australian Tax Act and any applicable law, official directive, request, guideline or policy (whether or not having the force of law) issued in connection with the Australian Tax Act.

“Taxes” has the meaning specified in Section 3.01(a).

“Term Borrowing” means (a) a borrowing consisting of simultaneous Term Loans of the same Class and Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the applicable Term Lenders pursuant to Section 2.01, (b) the making of a New Term Loan by a Lender or an Additional Lender to the Borrowers pursuant to Section 2.14 and the applicable Incremental Amendment, (c) the making of a Refinancing Term Loan by a Lender or an Additional Lender to the Borrowers pursuant to Section 2.15 and the applicable Refinancing Amendment, (d) the making of an Extended Term Loan of a given Term Loan Extension Series by a Lender to the Borrowers pursuant to Section 2.17 and the applicable Extension Amendment and (e) the making of a Replacement Term Loan by a Lender or an Additional Lender to the Borrowers pursuant to Section 10.01(b)(iii) and the applicable amendment to this Agreement in respect of such Replacement Term Loan.

“Term Commitment” means, as to each Term Lender, its obligation to make a Term Loan to the Borrowers, expressed as an amount representing the maximum principal amount of the Term Loan to be made by such Lender under this Agreement, as such commitment may be (a) reduced from time to time pursuant to Section 2.06 and (b) reduced or increased from time to time pursuant to (i) assignments by or to such Lender pursuant to an Assignment and Assumption, (ii) an Incremental Amendment, (iii) a Refinancing Amendment, (iv) an Extension Amendment or (v) an amendment to this Agreement in respect of Replacement Term Loans. The amount of each Lender’s Initial Term Commitment as of the Closing Date is set forth on Schedule 2.01 under the caption **“Initial Term Commitment;”** and the amount of each Lender’s other Term Commitments shall be as set forth in the Assignment and Assumption, Incremental Amendment, Refinancing Amendment, Extension Amendment or amendment to this Agreement in respect of Replacement Term Loans pursuant to which such Lender shall have assumed its Term Commitment, as the case may be, as such amounts may be adjusted from time to time in accordance with this Agreement.

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

“**Term Loan**” means (i) the Initial Term Loans and (ii) any New Term Loan, Refinancing Term Loan, Extended Term Loan or Replacement Term Loan effected pursuant to Section 2.14, Section 2.15, Section 2.17 or Section 10.01(b)(iii) as applicable, and the related Incremental Amendment, Refinancing Amendment, Extension Amendment or amendment to this Agreement in respect of Replacement Term Loans.

“**Term Loan Extension**” means any establishment of Extended Term Commitments and Extended Term Loans pursuant to Section 2.17 and the applicable Extension Amendment.

“**Term Loan Extension Election**” has the meaning specified in Section 2.17(b).

“**Term Loan Extension Series**” has the meaning specified in Section 2.17(a).

“**Term Loan Increase**” has the meaning specified in Section 2.14(a).

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

“**Term SOFR**” means, for the applicable Corresponding Tenor, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

“**Termination Date**” has the meaning specified in Section 9.11(a).

“**Test Period**” in effect at any time means the most recent period of four consecutive fiscal quarters of Holdings ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each quarter or fiscal year in such period have been or are required to be delivered pursuant to Section 6.01(a) or (b), as applicable; *provided* that, prior to the first date that financial statements have been or are required to be delivered pursuant to Section 6.01(a) or (b), the Test Period in effect shall be the period of twelve consecutive fiscal months ended June 30, 2021. A Test Period may be designated by reference to the last day thereof (i.e., the “June 30, 2021 Test Period” refers to the period of twelve consecutive fiscal months ended June 30, 2021), and a Test Period shall be deemed to end on the last day thereof.

“**Threshold Amount**” means \$25,000,000.

“**Total Net First Lien Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated First Lien Net Debt as of the last day of such Test Period to (b) Consolidated EBITDA of Holdings, the Borrowers and the other Restricted Subsidiaries for such Test Period.

“Total Net Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated Net Debt as of the last day of such Test Period to (b) Consolidated EBITDA of Holdings, the Borrowers and the other Restricted Subsidiaries for such Test Period.

“Total Net Secured Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated Secured Net Debt as of the last day of such Test Period to (b) Consolidated EBITDA of Holdings, the Borrowers and the other Restricted Subsidiaries for such Test Period.

“Total Outstanding” means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

“Trade Date” has the meaning specified in Section 10.07(b)(i)(B).

“Transaction” means, collectively, (a) the Closing Date IPO, the payment of the consideration in connection with the Closing Date IPO and the other transactions contemplated by the Underwriting Agreement, (b) the funding of the Initial Term Loans and initial Revolving Credit Loans (if any), and the execution and delivery of the Loan Documents entered into, on the Closing Date, (c) the Refinancing, (d) the consummation of any other transactions in connection with any of the foregoing and (e) the payment of the fees and expenses incurred in connection with any of the foregoing, including the Transaction Expenses.

“Transaction Expenses” means any fees, premiums, expenses and other transaction costs incurred or paid by Holdings or any of its Subsidiaries, Summit Partners or the Co-Investors in connection with the Transaction (including to fund any OID and upfront fees), this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby.

“Type” means, with respect to a Loan, its character as a Base Rate Loan, a Eurocurrency Rate Loan or a BBSY Rate Loan.

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

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

“Unadjusted Benchmark Replacement” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“Underwriting Agreement” has the meaning specified in the preliminary statements to this Agreement.

“Uniform Commercial Code” means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

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

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

“Unrestricted Subsidiary” means any Subsidiary of Holdings designated by the Lead Borrower as an Unrestricted Subsidiary pursuant to Section 6.14 subsequent to the date hereof, in each case, until such Person ceases to be an Unrestricted Subsidiary in accordance with Section 6.14 or ceases to be a Subsidiary of Holdings.

"USD LIBOR" has the meaning specified in the definition of "Eurocurrency Rate."

"U.S. Lender" has the meaning specified in [Section 3.01\(c\)\(v\)](#).

"U.S. Obligation" has the meaning specified in [Section 2.12\(h\)](#).

"U.S. Person" means any Person that is a **"United States person"** as defined in Section 7701(a)(30) of the Code.

"U.S. Special Resolution Regimes" has the meaning assigned to it in [Section 10.19](#).

"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 scheduled installment, sinking fund, serial maturity or other required scheduled payments of principal, including payment at final scheduled 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; provided that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended (the **"Applicable Indebtedness"**), the effects of any prepayments or amortization made on such Applicable Indebtedness prior to the date of the applicable modification, refinancing, refunding, renewal, replacement or extension shall be disregarded.

"wholly owned" means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (x) director's qualifying shares and (y) nominal shares issued to foreign nationals to the extent required by applicable Laws) are owned by such Person and/or by one or more wholly owned Subsidiaries of such Person.

"Withdrawal Liability" means the liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such term is defined in Part I of Subtitle E of Title IV of ERISA.

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

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

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

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

(ii) References in this Agreement and any other Loan Document to the introductory paragraph, preliminary statements, an Exhibit, Schedule, Article, Section, clause or sub-clause refer (A) to the appropriate introductory paragraph, preliminary statements, Exhibit or Schedule to, or Article, Section, clause or sub-clause in, this Agreement or (B) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears.

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- (iii) The terms "include," "includes" and "including" are by way of example and not limitation.
 - (iv) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.
 - (v) The words "assets" and "property" shall be construed to have the same meaning and effect.
 - (vi) The word "or" is not exclusive.
- (c) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including."
- (d) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

Section 1.03 Accounting Terms. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP or IFRS, as applicable, except as otherwise specifically prescribed herein.

Section 1.04 Rounding. Any financial ratios required to be maintained by any Borrower pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under this Agreement) shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein: (a) references to Organization Documents, documents (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, amendments and restatements, extensions, supplements, replacements, refinancings and other modifications thereto, but only to the extent that such amendments, restatements, amendments and restatements, extensions, supplements, replacements, refinancings, and other modifications are not prohibited by any Loan Document; (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law and (c) references to any Person shall include such Person's successors and permitted assigns.

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

Section 1.07 Available Amount Transactions. If more than one action occurs on any given date the permissibility or the taking of which is determined hereunder by reference to the amount of the Available Amount immediately prior to the taking of such action, the permissibility of the taking of each such action shall be determined independently and in no event may any two or more such actions be treated as occurring simultaneously, i.e., each transaction must be permitted under the Available Amount as so calculated.

Section 1.08 Pro Forma Calculations. (a) Notwithstanding anything to the contrary herein, Consolidated EBITDA and any financial ratios or tests, including the Total Net Secured Leverage Ratio, the Total Net Leverage Ratio, the Total Net First Lien Leverage Ratio and the Fixed Charge Coverage Ratio, shall be calculated in the manner prescribed by this Section 1.08; provided that notwithstanding anything to the contrary in clauses (b), (c) or (d) of this Section 1.08, when calculating (i) the Total Net Leverage Ratio for purposes of Section 2.05(b)(i) or (ii) the Total Net Leverage Ratio and the Fixed Charge Coverage Ratio for purposes of determining actual compliance (and not pro forma compliance, compliance on a Pro Forma Basis or determining compliance giving Pro Forma Effect to a transaction) with Section 7.10, the events described in this Section 1.08 that occurred subsequent to the end of the applicable Test Period shall not be given pro forma effect.

(b) For purposes of calculating Consolidated EBITDA and any financial ratios or tests, including the Total Net Leverage Ratio, the Total Net Secured Leverage Ratio, the Total Net First Lien Leverage Ratio and the Fixed Charge Coverage Ratio, Specified Transactions (and the incurrence or repayment of any Indebtedness in connection therewith, subject to clause (d) of this Section 1.08) that have been made (i) during the applicable Test Period or (ii) subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of Consolidated EBITDA or any such ratio is made shall be calculated on a pro forma basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated EBITDA and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable Test Period. If since the beginning of any applicable Test Period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into Holdings, the Borrowers or any of the other Restricted Subsidiaries since the beginning of such Test Period shall have made any Specified Transaction that would have required adjustment pursuant to this Section 1.08, then the Total Net Leverage Ratio, Total Net Secured Leverage Ratio, the Total Net First Lien Leverage Ratio, the Fixed Charge Coverage Ratio and Consolidated EBITDA shall be calculated to give pro forma effect thereto in accordance with this Section 1.08.

(c) Whenever pro forma effect is to be given to a Specified Transaction, the pro forma calculations shall be made in good faith by a Responsible Officer of the Lead Borrower and may include, for the avoidance of doubt, the amount of “run rate” cost savings, operating expense reductions and synergies projected by the Lead Borrower in good faith to be realized as a result of specified actions taken, committed to be taken or expected to be taken (calculated on a pro forma basis as though such cost savings, operating expense reductions and synergies had been realized on the first day of such period and as if such cost savings, operating expense reductions and synergies were realized during the entirety of such period) relating to such Specified Transaction, and “run rate” means the full recurring benefit for a period that is associated with any action taken, committed to be taken or expected to be taken (including any savings expected to result from the elimination of a public target’s compliance costs with public company requirements), net of the amount of actual benefits realized during such period from such actions; provided that (A) such amounts are reasonably identifiable (in the good faith determination of the Lead Borrower), (B) such actions are taken, committed to be taken or expected to be taken within twelve (12) months after the date of such Specified Transaction, (C) no amounts shall be added pursuant to this clause (c) to the extent duplicative of any amounts that are otherwise added back in computing Consolidated EBITDA, whether through a pro forma adjustment or otherwise, with respect to such period, (D) such “run rate” costs savings, operating expense reductions and synergies added back pursuant to this Section 1.08(c) in any Test Period shall, when aggregated with the amount of any add-back to Consolidated EBITDA pursuant to clauses (a)(xi) and (a)(xviii) of the definition of the term “Consolidated EBITDA” for such period, in each case, solely to the extent such items are not otherwise permitted to be reflected on pro forma financial statements prepared in compliance with Regulation S-X, not exceed an aggregate amount equal to 25% of Consolidated EBITDA, calculated after giving effect thereto, for such Test Period determined on a Pro Forma Basis, and (E) it is understood and agreed that, subject to compliance with the other provisions of this Section 1.08(c), amounts to be included in pro forma calculations pursuant to this Section 1.08(c) may be included in Test Periods in which the Specified Transaction to which such amounts relate to is no longer being given pro forma effect pursuant to Section 1.08(b).

(d) In the event that Holdings, the Borrowers or any other Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by repurchase, redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Total Net Secured Leverage Ratio, the Total Net Leverage Ratio and the Total Net First Lien Leverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable Test Period or (ii) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Total Net Secured Leverage Ratio, the Total Net Leverage Ratio and the Total Net First Lien Leverage Ratio, as applicable, shall be calculated giving pro forma effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable Test Period. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date such calculation is being made had been the applicable rate for the entire period (taking into account any Swap Contract applicable to such Indebtedness). Interest on a Capitalized Lease shall be deemed to accrue at an interest rate

reasonably determined by a Responsible Officer of the Lead Borrower to be the rate of interest implicit in such Capitalized Lease in accordance with GAAP or IFRS, as applicable. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency Rate, BBSY Bid or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Lead Borrower may designate.

(e) In connection with any action being taken in connection with a Limited Condition Transaction, for purposes of:

(i) determining compliance with any provision of this Agreement which requires the calculation of any financial ratio or test, including the Total Net Secured Leverage Ratio, the Total Net Leverage Ratio, the Total Net First Lien Leverage Ratio and the Fixed Charge Coverage Ratio; or

(ii) testing availability under baskets set forth in this Agreement (including baskets measured as a percentage of Consolidated EBITDA);

in each case, at the option of the Lead Borrower (the Lead Borrower's election to exercise such option in connection with any Limited Condition Transaction, an "**LCT Election**"), the date of determination of whether any such action is permitted hereunder shall be deemed to be the date the definitive agreement for such Limited Condition Transaction is entered into (the "**LCT Test Date**"), and if, after giving Pro Forma Effect to the Limited Condition Transaction, any Borrower or any of the other Restricted Subsidiaries would have been permitted to take such action on the relevant LCT Test Date in compliance with such ratio, test or basket, such ratio, test or basket shall be deemed to have been complied with. For the avoidance of doubt, if the Lead Borrower has made an LCT Election and any of the ratios, tests or baskets for which compliance was determined or tested as of the LCT Test Date would have failed to have been satisfied as a result of fluctuations in any such ratio, test or basket, including due to fluctuations in Consolidated EBITDA, at or prior to the consummation of the relevant transaction or action, such baskets, tests or ratios will not be deemed to have failed to have been satisfied as a result of such fluctuations. If the Lead Borrower has made an LCT Election for any Limited Condition Transaction, then in connection with any event or transaction occurring after the relevant LCT Test Date and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the date that the definitive agreement or date for redemption, repurchase, defeasance, satisfaction and discharge or repayment specified in an irrevocable notice for such Limited Condition Transaction is terminated, expires or passes, as applicable, without consummation of such Limited Condition Transaction (a "**Subsequent Transaction**") in connection with which a ratio, test or basket availability calculation must be made on a Pro Forma Basis or giving Pro Forma Effect to such Subsequent Transaction, for purposes of determining whether such ratio, test or basket availability has been complied with under this Agreement, any such ratio, test or basket shall be required to be satisfied on a Pro Forma Basis assuming such Limited Condition Transaction and other transactions in connection therewith have been consummated.

Section 1.09 Currency Equivalents Generally. (a) For purposes of determining compliance with Section 7.01, Section 7.02, Section 7.03, Section 7.05, Section 7.06, Section 7.08 and Section 7.12 with respect to the amount of any Lien, Investment, Indebtedness, Disposition, Restricted Payment, Affiliate transaction or prepayment, redemption, purchase, defeasance or other satisfaction of Indebtedness (a "subject transaction") in a currency other than Dollars, (i) the Dollar-equivalent amount of a subject transaction in a currency other than Dollars shall be calculated based on the relevant currency exchange rate in effect on the date of such subject transaction and, in the case of the incurrence of Indebtedness, on the date incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to extend, replace, refund, refinance, renew or defease (collectively, a "refinancing") other Indebtedness denominated in a currency other than Dollars, and such extension, refunding, replacement, refinancing, renewal or defeasance would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased, plus the aggregate amount of unpaid and accrued interest, premium (including tender and call premiums) thereon, defeasance costs and fees and expenses incurred (including OID, upfront fees and similar interest), in connection with such extension, replacement, refunding, refinancing, renewal or defeasance and (ii) for the avoidance of doubt, it is agreed no Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time of such subject transaction (so long as such subject transaction, at the time incurred, made, acquired, committed or entered into (or declared in the case of a Restricted Payment) was permitted hereunder).

(b) For purposes of determining the Total Net Leverage Ratio, the Total Net Secured Leverage Ratio, the Total Net First Lien Leverage Ratio and the Fixed Charge Coverage Ratio, amounts denominated in a currency other than Dollars will be converted to Dollars at the currency exchange rates used in preparing the Borrowers' financial statements corresponding to the Test Period with respect to the applicable date of determination and will, in the case of Indebtedness, reflect the currency translation effects, determined in accordance with GAAP or IFRS, as applicable, of Swap Contracts permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

Section 1.10 Certifications. All certificates and other statements required to be made by any director, officer, employee or member of management of a Loan Party pursuant to any Loan Document are and will be made on the behalf of such Loan Party and not in such officer's, director's, employee's or member of management's individual capacity.

Section 1.11 Payment or Performance. When the payment of any obligation or the performance of any action, covenant, duty or obligation under any Loan Document is stated to be due or performance required on a day which is not a Business Day (other than as described in the definition of "Interest Period" and in Section 2.12(b)), the date of such payment or performance shall extend to the immediately succeeding Business Day and such extension of time shall be reflected in computing interest or fees, as the case may be.

Section 1.12 Status of Obligations. In the event that Holdings, a Borrower or a Subsidiary Guarantor shall at any time issue or have outstanding any Subordinated Indebtedness, Holdings or the Lead Borrower shall take, or cause such Borrower or such Subsidiary Guarantor to take, all such actions as shall be necessary to cause the Obligations to constitute senior indebtedness (or such equivalent term) in respect of such Subordinated Indebtedness and to enable the Administrative Agent on behalf of the Secured Parties, and solely at the direction of the Required Lenders, to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness in accordance with the applicable subordination agreement. Without limiting the foregoing, the Obligations are hereby designated as "senior indebtedness" and as "designated senior indebtedness" and words of similar import under and in respect of any indenture or other agreement or instrument under which such Subordinated Indebtedness of any Loan Party is outstanding and are further given all such other designations as shall be required under the terms of such Subordinated Indebtedness in order that the Administrative Agent on behalf of the Secured Parties, and solely at the direction of the Required Lenders, may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness in accordance with the applicable subordination agreement.

Section 1.13 Australian Banking Code of Practice. The parties agree that the Banking Code of Practice published by the Australian Bankers' Association (as amended, revised or amended and restated from time to time) does not apply to the Loan Documents and the transactions contemplated thereby.

Section 1.14 Benchmark Notification. The Administrative Agent does not warrant or accept any responsibility for whether the composition or characteristics of any alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 3.03(b), will be similar to, or produce the same value or economic equivalence of, LIBOR or any other benchmark or have the same volume or liquidity as did LIBOR or any other benchmark rate prior to its discontinuance or unavailability.

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

ARTICLE II THE COMMITMENTS AND BORROWINGS

Section 2.01 The Loans. (a) *The Term Borrowings.* Subject to the terms and conditions set forth herein, each Term Lender with an Initial Term Commitment severally agrees to make to the applicable Borrowers a single loan denominated in Dollars equal to such Lender's Initial Term Commitment on the Closing Date (each such term loan, an "Initial Term Loan" and, collectively, the "Initial Term Loans"). Amounts borrowed under this Section 2.01(a) and repaid or prepaid may not be reborrowed. Initial Term Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

(b) *The Revolving Credit Borrowings.* Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make loans denominated in Dollars or Australian dollars to the Borrowers from time to time, on any Business Day prior to the Maturity Date with respect to the Revolving Credit Facility in an aggregate Dollar Amount not to exceed at any time outstanding the amount of such Revolving Credit Lender's Revolving Credit Commitment as then in effect; provided that after giving effect to any Revolving Credit Borrowing, the aggregate Outstanding Amount of the Revolving Credit Loans of any Revolving Credit Lender, plus such Revolving Credit Lender's Pro Rata Share or other applicable share provided for under this Agreement of the Outstanding Amount of all L/C Obligations, plus such Revolving Credit Lender's Pro Rata Share or other applicable share provided for under this Agreement of the Outstanding Amount of all Swing Line Loans, shall not exceed such Revolving Credit Lender's Revolving Credit Commitment as then in effect; *provided* that the aggregate principal amount of Revolving Credit Loans made on the Closing Date shall not exceed \$25,000,000 (exclusive of Letter of Credit Exposure and amounts used to finance Transaction Expenses). Revolving Credit Loans may be Base Rate Loans, Eurocurrency Rate Loans or BBSY Rate Loans, as further provided herein. All Revolving Credit Loans will be made by Revolving Credit Lenders (including both Extending Revolving Credit Lenders and Non-Extending Revolving Credit Lenders, to the extent that both Non-Extended Revolving Credit Commitments and Extended Revolving Credit Commitments are then outstanding) in accordance with their Pro Rata Shares (acting as a single Class for purposes of this Section 2.01) or other applicable share provided for under this Agreement until the Maturity Date with respect to the Non-Extended Revolving Credit Commitments; thereafter, all Revolving Credit Loans will be made by the Extending Revolving Credit Lenders in accordance with their Pro Rata Shares or other applicable share provided for under this Agreement. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Credit Loans.

Section 2.02 Borrowings, Conversions and Continuations of Loans. (a) Each Term Borrowing, each Revolving Credit Borrowing, each conversion of Loans of a given Class from one Type to the other (in the case of Loans other than BBSY Rate Loans), and each continuation of Eurocurrency Rate Loans and BBSY Rate Loans shall be made upon the Lead Borrower's irrevocable written notice to the Administrative Agent substantially in the form of a Loan Notice or in writing in any other form acceptable to the Administrative Agent, in each case appropriately completed and signed by a Responsible Officer of the Lead Borrower (*provided* that the notice in respect of the initial Borrowings on the Closing Date, or in connection with any Permitted Acquisition or other acquisition permitted under this Agreement, or in connection with any Borrowing or Extension, as applicable, under an Incremental Amendment, Refinancing Amendment, amendment in respect of Replacement Term Loans or Extension Amendment, may be conditioned on, with respect to the funding of the initial Borrowing under this Agreement, the closing of the Transaction or, with respect to any future Borrowing under this Agreement, such Permitted Acquisition or other acquisition or any such Borrowing or Extension under an Incremental Amendment, Refinancing Amendment, amendment in respect of Replacement Term Loans or Extension Amendment, as applicable). Each such notice must be received by the Administrative Agent not later than (i) 2:00 p.m. (New York City time) three (3) Business Days prior to the requested date of any Borrowing or continuation of Eurocurrency Rate Loans or BBSY Rate Loans (or conversion of Base Rate Loans to Eurocurrency Rate Loans), (ii) 10:00 a.m. (New York City time) on the requested date of any Borrowing of Base Rate Loans (or conversion of Eurocurrency Rate Loans to Base Rate Loans) and (iii) 10:00 a.m. (New York City time) on the Closing Date with respect to any Loans incurred on the Closing Date (or, in any case, such shorter period of time as agreed to by the Administrative Agent in its reasonable discretion). Except as provided in Sections 2.14 and 2.15, each Borrowing of or continuation of Eurocurrency Rate Loans or BBSY Rate Loans or the conversion to Eurocurrency Rate Loans, as applicable, shall be in a principal amount of \$100,000 or a whole multiple of \$100,000 in excess thereof in the case of Term Loans or Revolving Credit Loans. Except as provided in Sections 2.03(c), 2.04(c), 2.14 and 2.15 each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$100,000 or a whole multiple of \$100,000 in excess thereof. Each Loan Notice shall specify (i)

the Class of the Borrowing requested and whether the Lead Borrower is requesting the making of new Loans of the respective Class, a conversion of Term Loans or Revolving Credit Loans (of a given Class) from one Type to the other, or a continuation of Eurocurrency Rate Loans or BBSY Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Term Loans or Revolving Credit Loans are to be converted (v) if applicable, the duration of the Interest Period with respect thereto and (vi) the applicable Borrower of such Loans. If the Lead Borrower fails to specify a Type of Loan in a Loan Notice or fails to give a timely notice requesting a conversion or continuation, then, with respect to Dollar-denominated Loans only, the applicable Term Loans or Revolving Credit Loans shall be made as, or converted to, Base Rate Loans (unless the Loan being continued is a Eurocurrency Rate Loan or BBSY Rate Loan, in which case it shall be continued as a Eurocurrency Rate Loan or BBSY Rate Loan (as the case may be) with an Interest Period of one month). Any such automatic conversion of Dollar-denominated Loans to Base Rate Loans or continuation pursuant to the immediately preceding sentence shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurocurrency Rate Loans or BBSY Rate Loans. If the Lead Borrower requests a Borrowing of or continuation of Eurocurrency Rate Loans or BBSY Rate Loans or a conversion to Eurocurrency Rate Loans, as applicable, in any such Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one (1) month.

(b) Following receipt of a Loan Notice, the Administrative Agent shall promptly notify each Lender under the applicable Class of the amount of its Pro Rata Share of such Class of Loans, and if no timely notice of a conversion or continuation is provided by the Lead Borrower, the Administrative Agent shall notify each such Lender of the details of any automatic conversion to Base Rate Loans or continuation of Loans described in Section 2.02(a). In the case of each Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office not later than 3:00 p.m. (New York City time), in each case on the Business Day specified in the applicable Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (or, if such Borrowing is an initial Credit Extension on the Closing Date, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrowers in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrowers on the books of the Administrative Agent with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrowers and, to the extent such wire transfer is to be made to an account of the Borrowers not previously on the books of the Administrative Agent, subject to applicable "know your customer" and anti-money laundering rules and regulations, including the PATRIOT Act and the Australian Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth); *provided* that if, on the date the Loan Notice with respect to such Borrowing is given by the Lead Borrower, there are L/C Borrowings or Swing Line Loans outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such L/C Borrowings, second, to the payment in full of any such Swing Line Loans, and third, to the Borrowers as provided above.

(c) Except as otherwise provided herein, a Eurocurrency Rate Loan may be converted, and a Eurocurrency Rate Loan or BBSY Rate Loan may be continued, only on the last day of an Interest Period for such Eurocurrency Rate Loan or BBSY Rate Loan unless any Borrower pays the amount due, if any, under Section 3.05 in connection therewith. Upon the occurrence and during the continuation of an Event of Default, the Required Lenders may require that no Loans may be converted to Eurocurrency Rate Loans, or continued as Eurocurrency Rate Loans or BBSY Rate Loans, as applicable, with an Interest Period in excess of one month.

(d) The Administrative Agent shall promptly notify the Lead Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate Loans and BBSY Rate Loans upon determination of such interest rate. The determination of the Eurocurrency Rate and the BBSY Bid by the Administrative Agent shall be conclusive in the absence of manifest error. At any time when Base Rate Loans are outstanding, the Administrative Agent shall notify the Lead Borrower and the Lenders of any change in the "Prime Rate" used in determining the Base Rate under clause (b) of the definition thereof promptly following the public announcement of such change.

(e) After giving effect to all Term Borrowings, all Revolving Credit Borrowings, all conversions of Term Loans or Revolving Credit Loans of a given Class from one Type to the other, and all continuations of Term Loans or Revolving Credit Loans of a given Class as the same Type, there shall not be more than eight (8) Interest Periods in effect unless otherwise agreed between the Lead Borrower and the Administrative Agent; *provided* that after the establishment of any new Class of Loans pursuant to an Incremental Amendment, a Refinancing Amendment, an Extension Amendment or an amendment to this Agreement in respect of Replacement Term Loans, the number of Interest Periods otherwise permitted by this Section 2.02(e) shall increase by three (3) Interest Periods for each applicable Class so established; *provided further*, that the maximum number of Interest Periods in effect at any time for all Classes shall not exceed twelve (12) Interest Periods in the aggregate unless otherwise agreed between the Lead Borrower and the Administrative Agent.

(f) The failure of any Lender to make the Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Loan to be made by such other Lender on the date of any Borrowing.

(g) Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's Pro Rata Share of such Borrowing, the Administrative Agent may assume that such Lender has made such Pro Rata Share available to the Administrative Agent on the date of such Borrowing in accordance with clause (b) above, and the Administrative Agent may, in reliance upon such assumption, make available to the Borrowers on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and each Borrower severally agree to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrowers until the date such amount is repaid to the Administrative Agent at (i) in the case of the Borrowers, the interest rate applicable at the time to the Loans comprising such Borrowing and (ii) in the case of such Lender, (x) for Loans in Dollars, the Federal Funds Rate and (y) for Loans in Australian Dollars, the rate notified to such Lender to be that which expresses as a percentage rate per annum, the cost to the Administrative Agent of funding the Lender's participation in that Loan from whatever source it may reasonably select, in each case, plus any administrative, processing, or similar fees customarily charged by the Administrative Agent in accordance with the foregoing. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this Section 2.02(g) shall be conclusive in the absence of manifest error. If the Borrowers and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrowers the amount of such interest paid by the Borrowers for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrowers shall be without prejudice to any claim the Borrowers may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(h) The Administrative Agent, in its sole discretion from time to time, may elect, pursuant to arrangements between the Administrative Agent and any Revolving Credit Lender, to advance funds to the Borrowers on behalf of such Revolving Credit Lender. To the extent that the Administrative Agent so advances funds on behalf of a Revolving Credit Lender, and is not reimbursed therefore on the same Business Day as such advance is made, the Administrative Agent shall be entitled to retain for its account all interest accrued on such advance from the day such advance was made until reimbursed by the applicable Revolving Credit Lender.

Section 2.03 Letters of Credit

(a) The Letter of Credit Commitment. Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees, in reliance upon the agreements of the other Revolving Credit Lenders set forth in this Section 2.03, (x) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit denominated in Dollars or Australian Dollars (which, in the case of a commercial Letter of Credit, shall be issued on sight basis only) for the account of the Borrowers (*provided* that any Letter of Credit may be for the account of Holdings or any Restricted Subsidiary of Holdings, so long as the Lead Borrower is the applicant with respect thereto) and to amend or extend Letters of Credit previously issued by it, in accordance with Section 2.03(b), and (y) to honor drafts under the Letters of Credit and (B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued pursuant to this Section 2.03; *provided* that L/C Issuers shall not be obligated to make any L/C Credit Extensions with respect to any Letter of Credit, and no Lender shall be obligated to participate in any Letter of Credit if as of the date of the applicable L/C Credit Extension, (w) the

Revolving Credit Exposure of any Lender would exceed such Lender's Revolving Credit Commitments, (x) the Outstanding Amount of all L/C Obligations would exceed the Letter of Credit Sublimit or (y) the Letter of Credit giving rise to such L/C Credit Extension has a stated expiry date after the Maturity Date with respect to Non-Extended Revolving Credit Commitments and the aggregate stated amount of all Letters of Credit having stated expiry dates after such Maturity Date, when added to the aggregate Revolving Credit Exposure of all Extending Revolving Credit Lenders (exclusive of L/C Obligations) as of such date, would exceed the aggregate amount of the Extended Revolving Credit Commitments then in effect. Within the foregoing limits, and subject to the terms and conditions hereof, each Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly each Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. Each Appropriate Lender's risk participation in each outstanding Letter of Credit shall be automatically adjusted on each Maturity Date for any of the Revolving Credit Facilities as, and to the extent, provided in Section 2.06(d).

(i) [Reserved].

(ii) An L/C Issuer shall be under no obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such L/C Issuer from issuing such Letter of Credit, or any Law applicable to such L/C Issuer or any directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or direct that such L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date (for which such L/C Issuer is not otherwise compensated hereunder);

(B) subject to Section 2.03(b)(ii), the expiry date of such requested Letter of Credit would occur (i) in the case of standby Letters of Credit, more than twelve months after the date of issuance (or, in the case of any Auto-Renewal Letter of Credit or any other Letter of Credit that has been extended in accordance with this Section 2.03, the last renewal thereof) and (ii) in the case of a commercial Letter of Credit, more than 180 days after the date of issuance or (or, in the case of any Auto-Renewal Letter of Credit or any other Letter of Credit that has been extended in accordance with this Section 2.03, the last renewal thereof), unless, in each case, the relevant L/C Issuer has approved such expiry date;

(C) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless (1) all the Revolving Credit Lenders and the applicable L/C Issuer have approved such expiry date or (2) the Outstanding Amount of L/C Obligations in respect of such requested Letter of Credit has been Cash Collateralized on or before the date such requested Letter of Credit is issued;

(D) the issuance of such Letter of Credit would violate any Laws binding upon such L/C Issuer;

(E) such Letter of Credit is in an initial amount less than \$100,000 (or, in each case, such lesser amount as is acceptable to the applicable L/C Issuer in its sole discretion); or

(F) any Revolving Credit Lender is a Defaulting Lender at such time, unless such L/C Issuer has entered into arrangements reasonably satisfactory to it and the Lead Borrower to eliminate such L/C Issuer's risk with respect to the participation in Letters of Credit by such Defaulting Lender, including reallocation of the Defaulting Lender's Pro Rata Share of the outstanding L/C Obligations pursuant to Section 2.19 or by Cash Collateralizing such Defaulting Lender's Pro Rata Share or other applicable share provided for under this Agreement of the L/C Obligations.

(iii) An L/C Issuer shall be under no obligation to amend or extend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended or extended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment or extension to such Letter of Credit.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Renewal Letters of Credit Each Letter of Credit shall be issued, extended or amended, as the case may be, upon the written request of the Lead Borrower delivered to an L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Lead Borrower. Such Letter of Credit Application must be received by the relevant L/C Issuer and the Administrative Agent not later than 12:30 p.m. (New York City time) at least two (2) Business Days prior to the proposed issuance date or date of amendment or extension, as the case may be; or, in each case, such later date and time as the relevant L/C Issuer may agree in a particular instance in its sole discretion. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the relevant L/C Issuer: (a) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (b) the amount thereof; (c) the expiry date thereof; (d) the name and address of the beneficiary thereof; (e) the documents to be presented by such beneficiary in case of any drawing thereunder; (f) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder and (g) such other matters as the relevant L/C Issuer may reasonably request. In the case of a request for an amendment or extension of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the relevant L/C Issuer: (1) the Letter of Credit to be amended or extended; (2) the proposed date of amendment or extension thereof (which shall be a Business Day); (3) the nature of the proposed amendment or the length of extension and (4) such other matters as the relevant L/C Issuer may reasonably request.

(i) Promptly after receipt of any Letter of Credit Application, the relevant L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Lead Borrower and, if not, such L/C Issuer will provide the Administrative Agent with a copy thereof. Upon receipt by the relevant L/C Issuer of confirmation from the Administrative Agent that the requested issuance, amendment or extension is permitted in accordance with the terms hereof, then, subject to the terms and conditions hereof, such L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of any Borrower, Holdings or any other Restricted Subsidiary, as applicable, or enter into the applicable amendment or extension, as the case may be. Immediately upon the issuance of each Letter of Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the relevant L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Credit Lender's Pro Rata Share or other applicable share provided for under this Agreement multiplied by the amount of such Letter of Credit, which risk participation shall survive the Letter of Credit Expiration Date in the event any L/C Obligations are outstanding on such date with respect to Letters of Credit described in Section 2.03(a)(ii)(3).

(ii) If the Lead Borrower so requests in any applicable Letter of Credit Application, the relevant L/C Issuer shall agree to issue a Letter of Credit that has automatic renewal provisions (each, an "**Auto-Renewal Letter of Credit**"); *provided* that any such Auto-Renewal Letter of Credit must permit the relevant L/C Issuer to prevent any such renewal at least once in each twelve month period (commencing with the date of issuance of such Letter of Credit) (or such shorter period for any Letter of Credit with an expiration date that is less than twelve months from the date of the issuance thereof) by giving prior written notice to the beneficiary thereof not later than a day (the "Nonrenewal Notice Date") in each such twelve month period to be agreed upon at the time such Letter of Credit is issued; *provided, further*, that in no event shall the renewal period extend beyond the Letter of Credit Expiration Date except to the extent set forth in Section 2.03(a)(ii)(3). Unless otherwise directed by the relevant L/C Issuer, the Lead Borrower shall not be required to make a specific request to the relevant L/C Issuer for any such renewal. Once an Auto-Renewal Letter of Credit has been issued, the applicable Lenders shall be deemed to have authorized (but may not require) the

relevant L/C Issuer to permit the renewal of such Letter of Credit at any time prior to an expiry date that is, unless the Outstanding Amount of L/C Obligations in respect of such requested Letter of Credit has been Cash Collateralized, not later than the applicable Letter of Credit Expiration Date; *provided* that the relevant L/C Issuer shall not permit any such renewal if (A) the relevant L/C Issuer has determined that it would have no obligation at such time to issue such Letter of Credit in its renewed form under the terms hereof (by reason of the provisions of Section 2.03(a)(ii) or otherwise), or (B) it has received written notice on or before the day that is five (5) Business Days before the Nonrenewal Notice Date from the Administrative Agent or the Lead Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied.

(iii) Promptly after its delivery of any Letter of Credit or any amendment or extension to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the relevant L/C Issuer will also deliver to the Lead Borrower and the Administrative Agent a true and complete copy of such Letter of Credit, amendment or extension.

(c) Drawings and Reimbursements; Funding of Participations. Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the relevant L/C Issuer shall notify promptly the Lead Borrower and the Administrative Agent thereof. Not later than (1) 2:00 p.m. (New York City time) on the second Business Day immediately following any payment by an L/C Issuer under a Letter of Credit if the Lead Borrower receives notice by 5:00 p.m. (New York City time) on the date of payment and (2) if clause (1) does not apply, on the third Business Day following such notice (each such date, an “**Honor Date**”), the Borrowers shall reimburse such L/C Issuer in Dollars, in each case, through the Administrative Agent in an amount equal to the amount of such drawing, with interest on the amount so paid or disbursed by such L/C Issuer, to the extent not reimbursed on the date of such payment or disbursement. If the Borrowers fail to so reimburse such L/C Issuer by such time, the Administrative Agent shall promptly notify each Appropriate Lender of the Honor Date, the amount of the unreimbursed drawing (the “**Unreimbursed Amount**”), and the amount of such Appropriate Lender’s Pro Rata Share thereof or other applicable share provided for under this Agreement. In such event, the Lead Borrower shall be deemed to have requested a Revolving Credit Borrowing of Base Rate Loans, in each case to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Eurocurrency Rate Loans, BBSY Rate Loans or Base Rate Loans but subject to the amount of the unutilized portion of the Revolving Credit Commitments of the Appropriate Lenders and subject to the conditions set forth in Section 4.02 (other than the delivery of a Loan Notice).

(i) Each Appropriate Lender (including any such Lender acting as an L/C Issuer) shall upon any notice pursuant to Section 2.03(c)(i) make funds available to the Administrative Agent for the account of the relevant L/C Issuer in Dollars at the Administrative Agent’s Office for payments in an amount equal to its Pro Rata Share or other applicable share provided for under this Agreement of any Unreimbursed Amount not later than 1:00 p.m. (New York City time) on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.03(c)(ii), each Appropriate Lender that so makes funds available shall be deemed to have made a Revolving Credit Loan in the form of a Base Rate Loan to the Borrowers in such amount. The Administrative Agent shall remit the funds so received to the relevant L/C Issuer.

(ii) With respect to any Unreimbursed Amount in respect of a Letter of Credit that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrowers shall be deemed to have incurred from the relevant L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender’s payment to the Administrative Agent for the account of the relevant L/C Issuer pursuant to Section 2.03(c)(i) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iii) Until each Appropriate Lender funds its Revolving Credit Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the relevant L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender’s Pro Rata Share or other applicable share provided for under this Agreement of such amount shall be solely for the account of the relevant L/C Issuer.

(iv) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or L/C Advances to reimburse an L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the relevant L/C Issuer, any Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, (C) any reduction or termination of the Revolving Credit Commitments or (D) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided* that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Lead Borrower of a Loan Notice). No making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrowers to reimburse the relevant L/C Issuer for the amount of any payment made by such L/C Issuer under any Letter of Credit, together with interest as provided herein.

(v) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the relevant L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(i), such L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such L/C Issuer at a rate per annum equal to (x) in connection with Letters of Credit drawn in Dollars, the Federal Funds Rate from time to time in effect and (y) in connection with Letters of Credit drawn in Australian Dollars, the rate notified to such Lender to be that which expresses as a percentage rate per annum, the cost to such L/C Issuer of funding such Lender's participation in that Revolving Credit Loan or L/C Advance from whatever source it may reasonably select, in each case, plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Credit Loan included in the relevant Revolving Credit Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the relevant L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.03(c)(v) shall be conclusive absent manifest error.

(d) **Repayment of Participations.** (i) If, at any time after an L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Credit Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.03(c), the Administrative Agent receives for the account of such L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrowers or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Pro Rata Share or other applicable share provided for under this Agreement thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's L/C Advance was outstanding and any differential in the interest payable to such Lender attributable to the Applicable Rate for such Lender's L/C Advance as an Extending Revolving Credit Lender or a Non-Extending Revolving Credit Lender, as applicable) in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of an L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by such L/C Issuer in its discretion), each Appropriate Lender shall pay to the Administrative Agent for the account of such L/C Issuer its Pro Rata Share or other applicable share provided for under this Agreement thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to (x) in connection with Letters of Credit drawn in Dollars, the Federal Funds Rate from time to time in effect and (y) in connection with Letters of Credit drawn in Australian Dollars, the rate notified to the Administrative Agent to be that which expresses as a percentage rate per annum, the cost to the L/C Issuer of funding such Lender's Pro Rata Share from whatever source it may reasonably select. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) **Obligations Absolute.** The obligation of the Borrowers and the Lenders to reimburse the relevant L/C Issuer for each drawing under each Letter of Credit issued by it and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

- (i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;
- (ii) the existence of any claim, counterclaim, setoff, defense or other right that any Person (including any Loan Party) may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the relevant L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;
- (iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;
- (iv) any payment by the relevant L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the relevant L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law or as a result of an Australian Insolvency Event;
- (v) any exchange, release or non-perfection of any Collateral, or any release or amendment or waiver of or consent to departure from the Guaranty or any other guarantee, for all or any of the Obligations of any Loan Party in respect of such Letter of Credit;
- (vi) in the case of the obligations of any Lender, (i) the failure of any condition precedent set forth in Section 4.02 to be satisfied (each of which conditions precedent the Lenders hereby irrevocably waive) or (ii) any adverse change in the condition (financial or otherwise) of any Loan Party; or
- (vii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Loan Party or Lender;

provided that the foregoing shall not excuse any L/C Issuer from liability to the Borrowers to the extent of any direct damages (as opposed to consequential, special or punitive damages, claims in respect of which are waived by the Borrowers to the extent permitted by applicable Laws) suffered by the Borrowers that are caused by acts or omissions by such L/C Issuer's gross negligence, bad faith or willful misconduct (as determined by a court of competent jurisdiction by final and nonappealable judgment) when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof.

(f) **Role of L/C Issuers.** Each Lender and each Borrower agree that, in paying any drawing under a Letter of Credit, the relevant L/C Issuer shall not have any responsibility to obtain any document (other than any draft, demand, certificate or other document expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuers, any Agent-Related Person nor any of the respective correspondents, participants or assignees of any L/C Issuer shall be liable to any Lender or Loan Party for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence, bad faith or willful misconduct (as determined by a court

of competent jurisdiction by final and nonappealable judgment); or (iii) the absence of due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application. Each Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; *provided* that this assumption is not intended to, and shall not, preclude such Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuers, any Agent-Related Person, nor any of the respective correspondents, participants or assignees of any L/C Issuer, shall be liable or responsible for any of the matters described in clauses (i) through (vii) of Section 2.03(e) or clauses (i) through (iii) of this Section 2.03(f); *provided* that anything in such clauses to the contrary notwithstanding, the Borrowers may have a claim against an L/C Issuer, and such L/C Issuer may be liable to the Borrowers, to the extent, but only to the extent, of any direct, as opposed to consequential, special, punitive or exemplary, damages suffered by any Borrower which such Borrower proves were caused by such L/C Issuer's willful misconduct, bad faith or gross negligence or such L/C Issuer's willful or grossly negligent failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit (in each case, as are determined by a court of competent jurisdiction by final and nonappealable judgment). In furtherance and not in limitation of the foregoing, each L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and no L/C Issuer shall be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(g) **Cash Collateral.** If (i) as of the Letter of Credit Expiration Date, any Letter of Credit may for any reason remain outstanding and partially or wholly undrawn, (ii) any Event of Default occurs and is continuing and the Administrative Agent or the Required Lenders require the Borrowers to Cash Collateralize the L/C Obligations pursuant to Section 8.02 or (iii) an Event of Default set forth under Section 8.01(f) occurs and is continuing, then the Borrowers shall Cash Collateralize the then Outstanding Amount of all L/C Obligations (in an amount equal to such Outstanding Amount determined as of the date of such Event of Default or the Letter of Credit Expiration Date, as the case may be), and shall do so not later than 3:00 p.m. (New York City time) on (x) in the case of the immediately preceding clauses (i) and (ii), (1) the Business Day that any Borrower receives notice thereof, if such notice is received on such day prior to 11:00 a.m. (New York City time) or (2) if clause (1) above does not apply, the Business Day immediately following the day that any Borrower received such notice and (y) in the case of the immediately preceding clause (iii), the Business Day on which an Event of Default set forth under Section 8.01(f) occurs or, if such day is not a Business Day, the Business Day immediately succeeding such day. If at any time the Administrative Agent determines that any funds held as Cash Collateral are subject to any prior right or claim of any Person other than the Administrative Agent (on behalf of the Secured Parties) or that the total amount of such funds is less than the aggregate Outstanding Amount of all L/C Obligations, the Borrowers will, forthwith upon demand by the Administrative Agent, pay to the Administrative Agent, as additional funds to be deposited and held in the deposit accounts at the Administrative Agent as aforesaid, an amount equal to the excess of (a) such aggregate Outstanding Amount over (b) the total amount of funds, if any, then held as Cash Collateral that the Administrative Agent reasonably determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit as Cash Collateral, such funds shall be applied, to the extent permitted under applicable Laws, to reimburse the relevant L/C Issuer. To the extent the amount of any Cash Collateral exceeds the then Outstanding Amount of such L/C Obligations and so long as no Event of Default has occurred and is continuing, the excess shall be refunded to the Borrowers. To the extent any Event of Default giving rise to the requirement to Cash Collateralize any Letter of Credit pursuant to this Section 2.03(g) is cured or otherwise waived in accordance with Section 10.01, then so long as no other Event of Default has occurred and is continuing, all Cash Collateral pledged to Cash Collateralize such Letter of Credit shall be refunded to the Borrowers.

(h) **Applicability of ISP and UCP.** Unless otherwise expressly agreed by the L/C Issuer and the Lead Borrower when a Letter of Credit is issued, (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce at the time of issuance shall apply to each commercial Letter of Credit.

(i) **Letter of Credit Fees.** The Borrowers shall pay to the Administrative Agent (i) for any period prior to the date of any Extension Amendment, for the account of each Revolving Credit Lender in accordance with its Pro Rata Share (if any) or other applicable share provided for under this Agreement, a Letter of Credit fee for each Letter of Credit issued pursuant to this Agreement equal to the Applicable Rate applicable to Revolving Credit

Loans maintained as Eurocurrency Rate Loans or BBSY Rate Loans then in effect for the applicable Class or Classes of the respective Revolving Credit Lender's Revolving Credit Commitments times the maximum face amount of such Letter of Credit (whether or not such maximum face amount is then in effect under such Letter of Credit, if such maximum face amount increases periodically pursuant to the terms of such Letter of Credit) and (ii) for any period commencing on and after the date of any Extension Amendment (and for so long as the Non-Extended Revolving Credit Commitments and Extended Revolving Credit Commitments resulting from such Extension Amendment (or any Revolving Credit Exposure thereunder) remain outstanding), for the account of each Non-Extending Revolving Credit Lender and each Extending Revolving Credit Lender under each such Class in accordance with its Other Allocable Share of the Non-Extended Revolving Credit Commitments and the Extended Revolving Credit Commitments, respectively, that result pursuant to such Extension Amendment, a Letter of Credit fee for each Letter of Credit issued pursuant to this Agreement equal to the Applicable Rate applicable to Revolving Credit Loans maintained as Eurocurrency Rate Loans or BBSY Rate Loans then in effect in respect of such Non-Extended Revolving Credit Commitments or Extended Revolving Credit Commitments, as the case may be, times the Allocable Revolving Share of the Non-Extending Revolving Credit Lenders or the Extending Revolving Credit Lenders, as the case may be, of the daily maximum face amount of such Letter of Credit (whether or not such maximum face amount is then in effect under such Letter of Credit, if such maximum face amount increases periodically pursuant to the terms of such Letter of Credit). Such letter of credit fees shall be computed on a quarterly basis in arrears. Such letter of credit fees shall be due and payable in Dollars on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Maturity Date for the Non-Extended Revolving Credit Commitments (with respect to the fees accrued for the accounts on the Non-Extending Revolving Credit Lenders), on any other relevant Maturity Date (for any applicable Revolving Credit Commitments then expiring), or the Letter of Credit Expiration Date and thereafter on demand. If there is any change in the Applicable Rate applicable to Revolving Credit Loans maintained as Eurocurrency Rate Loans or BBSY Rate Loans then in effect during any quarter, the daily maximum face amount of each Letter of Credit shall be computed and multiplied by such Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(j) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuers The Borrowers shall pay directly to each L/C Issuer for its own account a fronting fee with respect to each Letter of Credit issued by it equal to 0.125% per annum (or such other amount as is agreed in a separate writing between the relevant L/C Issuer and the Lead Borrower) of the maximum face amount of such Letter of Credit. Such fronting fees shall be (x) computed on a quarterly basis in arrears and (y) due and payable on the last Business Day of each of March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. In addition, the Borrowers shall pay directly to each L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable within ten (10) Business Days of demand and are nonrefundable.

(k) Conflict with Letter of Credit Application Notwithstanding anything else to the contrary in this Agreement, in the event of any conflict between the terms hereof and the terms of any Letter of Credit Application, the terms hereof shall control. No Issuer Document shall (x) contain any representations or warranties, covenants or events of default not set forth in this Agreement (and to the extent inconsistent herewith, shall be rendered null and void) and (y) all representations and warranties, covenants and events of default contained therein shall contain standards, qualifications, thresholds and exceptions for materiality that are otherwise consistent with this Agreement (and, to the extent inconsistent herewith, shall be deemed to incorporate such standards, qualifications, thresholds and exceptions contained herein without action by any other party).

(l) Addition of an L/C Issuer A Revolving Credit Lender or any Affiliate thereof, in each case reasonably acceptable to the Lead Borrower and the Administrative Agent, pursuant to a written agreement among the Lead Borrower, the Administrative Agent and such Revolving Credit Lender or Affiliate thereof, shall be an additional L/C Issuer. The Administrative Agent shall notify the Revolving Credit Lenders under the applicable Facility of any such additional L/C Issuer under such Facility.

(m) Letters of Credit issued for Holdings or Subsidiaries Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, Holdings or any Restricted Subsidiary, the Borrowers shall be obligated to reimburse the applicable L/C Issuer hereunder for any and all drawings under such Letter of Credit. The Borrowers hereby acknowledge that the issuance of Letters of Credit for the account of Holdings and/or any Restricted Subsidiary inures to the benefit of the Borrowers, and that the Borrowers' business derives substantial benefits from the businesses of Holdings and such Restricted Subsidiaries.

Section 2.04 Swing Line Loans.

(a) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender agrees to make loans in Dollars (each such loan, a "Swing Line Loan") to the Borrowers from time to time on any Business Day after the Closing Date until the Maturity Date for the Revolving Credit Facility in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Pro Rata Share of the Outstanding Amount of Revolving Credit Loans and L/C Obligations of the Lender acting as Swing Line Lender, may exceed the amount of such Lender's Revolving Credit Commitment; *provided* that (i) after giving effect to any Swing Line Loan, the aggregate Outstanding Amount of the Revolving Credit Loans of any Lender (other than the relevant Swing Line Lender solely in its capacity as such), plus such Lender's Pro Rata Share of the Outstanding Amount of all L/C Obligations, plus such Lender's Pro Rata Share of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Revolving Credit Commitment then in effect and (ii) notwithstanding the foregoing, the Swing Line Lender shall not be obligated to make any Swing Line Loans at a time when a Revolving Credit Lender is a Defaulting Lender, unless the Swing Line Lender has entered into arrangements reasonably satisfactory to it and the Lead Borrower to eliminate the Swing Line Lender's fronting exposure (after giving effect to Section 2.19(b)) with respect to the Defaulting Lender's participation in such Swing Line Loans, including by cash collateralizing, or obtaining a backstop letter of credit from an issuer reasonably satisfactory to the Swing Line Lender to support, such Defaulting Lender's Pro Rata Share of the outstanding amount of Swing Line Loans; *provided further* that, the Borrowers shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan. The Borrowers shall repay to the Swing Line Lender each Defaulting Lender's portion (after giving effect to Section 2.19(b)) of each Swing Line Loan promptly following demand by the Swing Line Lender. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrowers may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swing Line Loan shall be a Base Rate Loan. Swing Line Loans shall be denominated in Dollars. Immediately upon the making of a Swing Line Loan, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender's Pro Rata Share times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Lead Borrower's irrevocable notice to the Swing Line Lender and the Administrative Agent in the form of a Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the Lead Borrower. Each such notice must be received by the Swing Line Lender and the Administrative Agent not later than 2:00 p.m. (New York City time) on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$100,000 or a whole multiple of \$100,000 in excess thereof, and (ii) the requested borrowing date, which shall be a Business Day (or, in any case, such shorter period of time as agreed to by the Swing Line Lender in its reasonable discretion). Promptly after receipt by the Swing Line Lender of any Swing Line Loan Notice, the Swing Line Lender will confirm with the Administrative Agent (in writing) that the Administrative Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Administrative Agent (in writing) of the contents thereof. Subject to the terms and conditions hereof, the Swing Line Lender will, not later than 4:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrowers.

(c) Refinancing of Swing Line Loans.

(i) The Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Borrowers (which hereby irrevocably authorize the Swing Line Lender to so request on their behalf), that each Revolving Credit Lender make a Base Rate Loan in an amount equal to such Lender's Pro Rata Share of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the aggregate Revolving Credit

Commitments and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the Lead Borrower with a copy of the applicable Loan Notice promptly after delivering such notice to the Administrative Agent. Each Revolving Credit Lender shall make an amount equal to its Pro Rata Share of the amount specified in such Loan Notice available to the Administrative Agent in Same Day Funds for the account of the Swing Line Lender at the Administrative Agent's Office not later than 4:00 p.m. (New York City time) on the day specified in such Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrowers in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Revolving Credit Borrowing in accordance with Section 2.04(c)(i), the request for Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Revolving Credit Lenders fund its risk participation in the relevant Swing Line Loan and each Revolving Credit Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swing Line Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the Federal Funds Rate from time to time in effect. A certificate of the Swing Line Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, any Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided that each Revolving Credit Lender's obligation to make Revolving Credit Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrowers to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Revolving Credit Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Lender its Pro Rata Share of such payment (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's risk participation was funded) in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Revolving Credit Lender shall pay to the Swing Line Lender its Pro Rata Share thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The Administrative Agent will make such demand upon the request of the Swing Line Lender.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrowers for interest on the Swing Line Loans. Until each Revolving Credit Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.04 to refinance such Lender's Pro Rata Share of any Swing Line Loan, interest in respect of such Pro Rata Share shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. The Borrowers shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

Section 2.05 Prepayments.

(a) Optional.

(i) The Borrowers may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Term Loans or Revolving Credit Loans in whole or in part without premium or penalty; *provided* that (1) such notice must be received by the Administrative Agent not later than 2:00 p.m. (New York City time) (A) three (3) Business Days prior to any date of prepayment of Eurocurrency Rate Loans or BBSY Rate Loans and (B) on the day of prepayment of Base Rate Loans (or, in any case, such shorter period of time as agreed to by the Administrative Agent in its reasonable discretion); (2) any partial prepayment of Eurocurrency Rate Loans or BBSY Rate Loans shall be in a principal amount of \$100,000 or a whole multiple of \$100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding; and (3) any prepayment of Base Rate Loans shall be in a principal amount of \$100,000 or a whole multiple of \$100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Class(es) and Type(s) of Loans to be prepaid and, in the case of a prepayment of Term Loans, the manner in which such prepayment shall be applied to repayments thereof required pursuant to Section 2.07(a); provided that in the event such notice fails to specify the manner in which the respective prepayment of Term Loans shall be applied to repayments thereof required pursuant to Section 2.07(a), such prepayment of Term Loans shall be applied in direct order of maturity to repayments thereof required pursuant to Section 2.07(a). The Administrative Agent will promptly notify each Appropriate Lender of its receipt of each such notice, and of the amount of such Lender's Pro Rata Share or other applicable share provided for under this Agreement of such prepayment. Any prepayment of a Eurocurrency Rate Loan or a BBSY Rate Loan shall be accompanied by all accrued interest thereon and any additional amounts required pursuant to Section 3.05. Each prepayment of the Loans of a given Class pursuant to this Section 2.05(a) shall be paid to the Appropriate Lenders in accordance with their respective Pro Rata Shares.

(ii) The Borrowers may, upon notice by the Lead Borrower to the Swing Line Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; *provided* that (1) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 2:00 p.m. (New York City time) on the date of the prepayment (or such later time as agreed to by the Swing Line Lender in its reasonable discretion), and (2) any such prepayment shall be in a minimum principal amount of \$100,000 or a whole multiple of \$100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Lead Borrower, the Borrowers shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(iii) Notwithstanding anything to the contrary contained in this Agreement, the Lead Borrower may rescind, or extend the date for prepayment specified in, any notice of prepayment under Section 2.05(a)(i), if such prepayment would have resulted from a refinancing of all or any portion of any Facility or Facilities which refinancing shall not be consummated or shall otherwise be delayed.

(iv) Voluntary prepayments of any Class of Term Loans permitted hereunder shall be applied to the remaining scheduled installments of principal thereof pursuant to Section 2.07(a) in a manner determined at the sole discretion of the Lead Borrower and specified in the notice of prepayment, and, subject to the other limitations expressly set forth in this Agreement, the Lead Borrower may elect to apply voluntary prepayments of Term Loans to one or more Class or Classes of Term Loans selected by the Lead Borrower in its sole discretion (*provided* that such voluntary prepayments of the Term Loans shall be made pro rata within any such Class or Classes selected by the Lead Borrower). In the event that the Lead Borrower does not specify the order in which to apply prepayments to reduce scheduled installments of principal or as between Classes of Term Loans, the Lead Borrower shall be deemed to have elected that such prepayment be applied to reduce the scheduled installments of principal in direct order of maturity on a pro rata basis among Class(es) of Term Loan.

(v) Notwithstanding anything in any Loan Document to the contrary, so long as no Event of Default has occurred and is continuing, the Borrowers may prepay the outstanding Term Loans (which shall, for the avoidance of doubt, be automatically and permanently canceled immediately upon acquisition by the Borrowers) (or Holdings or any of its Subsidiaries other than any Borrower may purchase such outstanding Term Loans, which shall be automatically and permanently cancelled immediately upon such acquisition) on the following basis:

(A) Any Borrower Party shall have the right to make a voluntary prepayment of Term Loans at a discount to par pursuant to a Borrower Offer of Specified Discount Prepayment, Borrower Solicitation of Discount Range Prepayment Offer or Borrower Solicitation of Discounted Prepayment Offer (any such prepayment, the “**Discounted Loan Prepayment**”), in each case made in accordance with this Section 2.05(a)(v); provided that no Borrower Party shall initiate any action under this Section 2.05(a)(v) in order to make a Discounted Loan Prepayment (other than with respect to actions under this Section 2.05(a)(v) in order to make the first Discounted Loan Prepayment hereunder) unless (I) at least ten (10) Business Days shall have passed since the consummation of the most recent Discounted Loan Prepayment as a result of a prepayment made by a Borrower Party on the applicable Discounted Prepayment Effective Date; or (II) at least three (3) Business Days shall have passed since the date such Borrower Party was notified that no Lender was willing to accept any prepayment of any Term Loan at the Specified Discount, within the Discount Range or at any discount to par value, as applicable, or in the case of Borrower Solicitation of Discounted Prepayment Offers, the date of the any Borrower Party’s election not to accept any Solicited Discounted Prepayment Offers.

(B) Subject to the proviso to clause (A) above, any Borrower Party may from time to time offer to make a Discounted Loan Prepayment by providing the Auction Agent with five (5) Business Days’ notice in the form of a Specified Discount Prepayment Notice; *provided that* (I) any such offer shall be made available, at the sole discretion of the Borrower Party, to (x) each Lender and/or (y) each Lender with respect to any Class of Term Loans on an individual tranche basis, (II) any such offer shall specify the aggregate principal amount offered to be prepaid (the “**Specified Discount Prepayment Amount**”) with respect to each applicable Class, the Class or Classes of Term Loans subject to such offer and the specific percentage discount to par (the “**Specified Discount**”) of such Term Loans to be prepaid (it being understood that different Specified Discounts and/or Specified Discount Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such event, each such offer will be treated as a separate offer pursuant to the terms of this clause), (III) the Specified Discount Prepayment Amount shall be in an aggregate amount not less than \$1,000,000 and whole increments of \$1,000,000 in excess thereof and (IV) each such offer shall remain outstanding through the Specified Discount Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Specified Discount Prepayment Notice and a form of the Specified Discount Prepayment Response to be completed and returned by each such Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York City time, on the third Business Day after the date of delivery of such notice to such Lenders (which date may be extended for a period not exceeding three (3) Business Days upon notice by the Borrower Party to, and with the consent of, the Auction Agent) (the “**Specified Discount Prepayment Response Date**”).

(1) Each Lender receiving such offer shall notify the Auction Agent (or its delegate) by the Specified Discount Prepayment Response Date whether or not it agrees to accept a prepayment of any of its applicable then outstanding Term Loans at the Specified Discount and, if so (such accepting Lender, a “**Discount Prepayment Accepting Lender**”), the amount and the Classes of such Lender’s Term Loans to be prepaid at such offered discount. Each acceptance of a Discounted Loan Prepayment by a Discount Prepayment Accepting Lender shall be irrevocable. Any Lender whose Specified Discount Prepayment Response is not received by the Auction Agent by the Specified Discount Prepayment Response Date shall be deemed to have declined to accept the applicable Borrower Offer of Specified Discount Prepayment.

(2) If there is at least one Discount Prepayment Accepting Lender, the relevant Borrower Party will make a prepayment of outstanding Term Loans pursuant to this clause (B) to each Discount Prepayment Accepting Lender on the Discounted Prepayment Effective Date in accordance with the respective outstanding amount and Classes of Term Loans specified in such Lender’s Specified Discount Prepayment Response given pursuant to clause (2) above; *provided* that, if the aggregate principal amount of Term Loans accepted for prepayment by all Discount Prepayment Accepting Lenders exceeds the Specified Discount Prepayment Amount, such prepayment shall be made pro rata among the Discount Prepayment Accepting Lenders in accordance with the respective principal amounts accepted to be prepaid by each such Discount Prepayment Accepting Lender and the Auction Agent (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its reasonable discretion) will calculate such proration (the “**Specified Discount Proration**”). The Auction Agent shall promptly, and in any case within four (4) Business Days following the Specified Discount Prepayment Response Date, notify (I) the relevant Borrower Party of the respective Lenders’ responses to such offer, the Discounted Prepayment Effective Date and the aggregate principal amount of the Discounted Loan Prepayment and the Classes to be prepaid, (II) each Lender of the Discounted Prepayment Effective Date, and the aggregate principal amount and the Classes of Term Loans to be prepaid at the Specified Discount on such date and (III) each Discount Prepayment Accepting Lender of the Specified Discount Proration, if any, and confirmation of the principal amount, Class and Type of Term Loans of such Lender to be prepaid at the Specified Discount on such date. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the Borrower Party and such Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the Borrower Party shall be due and payable by such Borrower Party on the Discounted Prepayment Effective Date in accordance with clause (F) below (subject to clause (J) below).

(C) Subject to the proviso to subclause (A) above, any Borrower Party may from time to time solicit Discount Range Prepayment Offers by providing the Auction Agent with five (5) Business Days’ notice in the form of a Discount Range Prepayment Notice; *provided* that (I) any such solicitation shall be extended, at the sole discretion of such Borrower Party, to (x) each Lender and/or (y) each Lender with respect to any Class of Term Loans on an individual tranche basis, (II) any such notice shall specify the maximum aggregate principal amount of the relevant Loans (the “Discount Range Prepayment Amount”), the Class or Classes of Term Loans subject to such offer and the maximum and minimum percentage discounts to par (the “**Discount Range**”) of the principal amount of such Term Loans with respect to each relevant Class of Term Loans willing to be prepaid by such Borrower Party (it being understood that different Discount Ranges and/or Discount Range Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such event, each such offer will be treated as separate offer pursuant to the terms of this clause), (III) the Discount Range Prepayment Amount shall be in an aggregate amount not less than \$1,000,000 and whole increments of \$1,000,000 in excess thereof and (IV) each such solicitation by such Borrower Party shall

remain outstanding through the Discount Range Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Discount Range Prepayment Notice and a form of the Discount Range Prepayment Offer to be submitted by a responding Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York City time, on the third Business Day after the date of delivery of such notice to such Lenders (which date may be extended for a period not exceeding three (3) Business Days upon notice by the Borrower Party to, and with the consent of, the Auction Agent) (the “**Discount Range Prepayment Response Date**”). Each Lender’s Discount Range Prepayment Offer shall be irrevocable and shall specify a discount to par within the Discount Range (the “**Submitted Discount**”) at which such Lender is willing to allow prepayment of any or all of its then outstanding Term Loans of the applicable Class or Classes and the maximum aggregate principal amount and Classes of such Lender’s Term Loans (the “**Submitted Amount**”) such Lender is willing to have prepaid at the Submitted Discount. Any Lender whose Discount Range Prepayment Offer is not received by the Auction Agent by the Discount Range Prepayment Response Date shall be deemed to have declined to accept a Discounted Loan Prepayment of any of its Term Loans at any discount to their par value within the Discount Range.

(1) The Auction Agent shall review all Discount Range Prepayment Offers received on or before the applicable Discount Range Prepayment Response Date and shall determine (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the Applicable Discount and Term Loans to be prepaid at such Applicable Discount in accordance with this subclause (C). The relevant Borrower Party agrees to accept on the Discount Range Prepayment Response Date all Discount Range Prepayment Offers received by Auction Agent within the Discount Range by the Discount Range Prepayment Response Date, in the order from the Submitted Discount that is the largest discount to par to the Submitted Discount that is the smallest discount to par, up to and including the Submitted Discount that is the smallest discount to par within the Discount Range (such Submitted Discount that is the smallest discount to par within the Discount Range being referred to as the “**Applicable Discount**”) which yields a Discounted Loan Prepayment in an aggregate principal amount equal to the lower of (I) the Discount Range Prepayment Amount and (II) the sum of all Submitted Amounts. Each Lender that has submitted a Discount Range Prepayment Offer to accept prepayment at a discount to par that is larger than or equal to the Applicable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Submitted Amount (subject to any required proration pursuant to the following subclause (3)) at the Applicable Discount (each such Lender, a “**Participating Lender**”).

(2) If there is at least one Participating Lender, the relevant Borrower Party will prepay the respective outstanding Term Loans of each Participating Lender on the Discounted Prepayment Effective Date in the aggregate principal amount and of the Classes specified in such Lender’s Discount Range Prepayment Offer at the Applicable Discount; *provided* that if the Submitted Amount by all Participating Lenders offered at a discount to par greater than the Applicable Discount exceeds the Discount Range Prepayment Amount, prepayment of the principal amount of the relevant Term Loans for those Participating Lenders whose Submitted Discount is a discount to par greater than or equal to the Applicable Discount (the “**Identified Participating Lenders**”) shall be made pro rata among the Identified Participating Lenders in accordance with the Submitted Amount of each such Identified Participating Lender and the Auction Agent (in consultation with the Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the “**Discount Range Proration**”). The Auction Agent

shall promptly, and in any case within six (6) Business Days following the Discount Range Prepayment Response Date, notify (I) the relevant Borrower Party of the respective Lenders' responses to such solicitation, the Discounted Prepayment Effective Date, the Applicable Discount, and the aggregate principal amount of the Discounted Loan Prepayment and the Classes to be prepaid, (II) each Lender of the Discounted Prepayment Effective Date, the Applicable Discount, and the aggregate principal amount and Classes of Term Loans to be prepaid at the Applicable Discount on such date, (III) each Participating Lender of the aggregate principal amount and Classes of such Lender to be prepaid at the Applicable Discount on such date, and (IV) if applicable, each Identified Participating Lender of the Discount Range Proration. Each determination by the Auction Agent of the amounts stated in the foregoing notices to the relevant Borrower Party and Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to the Borrower Party shall be due and payable by such Borrower Party on the Discounted Prepayment Effective Date in accordance with subclause (F) below (subject to subclause (J) below).

(D) Subject to the proviso to subclause (A) above, any Borrower Party may from time to time solicit Solicited Discounted Prepayment Offers by providing the Auction Agent with five (5) Business Days' notice in the form of a Solicited Discounted Prepayment Notice; *provided* that (I) any such solicitation shall be extended, at the sole discretion of such Borrower Party, to (x) each Lender and/or (y) each Lender with respect to any Class of Term Loans on an individual tranche basis, (II) any such notice shall specify the maximum aggregate amount of the Term Loans (the "Solicited Discounted Prepayment Amount") and the Class or Classes of Term Loans the Borrowers are willing to prepay at a discount (it being understood that different Solicited Discounted Prepayment Amounts may be offered with respect to different Classes of Term Loans and, in such event, each such offer will be treated as separate offer pursuant to the terms of this clause), (III) the Solicited Discounted Prepayment Amount shall be in an aggregate amount not less than \$1,000,000 and whole increments of \$1,000,000 in excess thereof and (IV) each such solicitation by such Borrower Party shall remain outstanding through the Solicited Discounted Prepayment Response Date. The Auction Agent will promptly provide each Appropriate Lender with a copy of such Solicited Discounted Prepayment Notice and a form of the Solicited Discounted Prepayment Offer to be submitted by a responding Lender to the Auction Agent (or its delegate) by no later than 5:00 p.m., New York City time on the third Business Day after the date of delivery of such notice to such Lenders (which date may be extended for a period not exceeding three (3) Business Days upon notice by the Borrower Party to, and with the consent of, the Auction Agent) (the "**Solicited Discounted Prepayment Response Date**"). Each Lender's Solicited Discounted Prepayment Offer shall (x) be irrevocable, (y) remain outstanding until the Acceptance Date, and (z) specify both a discount to par (for example, an offer of 99% of the outstanding principal amount would equate to a 1% discount to par) (the "**Offered Discount**") at which such Lender is willing to allow prepayment of its then outstanding Term Loans and the maximum aggregate principal amount and Classes of such Term Loans (the "**Offered Amount**") such Lender is willing to have prepaid at the Offered Discount. Any Lender whose Solicited Discounted Prepayment Offer is not received by the Auction Agent by the Solicited Discounted Prepayment Response Date shall be deemed to have declined prepayment of any of its Term Loans at any discount with respect to the applicable Solicited Discounted Prepayment Offer.

(1) The Auction Agent shall promptly provide the relevant Borrower Party with a copy of all Solicited Discounted Prepayment Offers received on or before the Solicited Discounted Prepayment Response Date. Such Borrower Party shall review all such Solicited Discounted Prepayment Offers and select the smallest of the Offered Discounts specified by the relevant responding

Lenders in the Solicited Discounted Prepayment Offers that is acceptable to the Borrower Party in its sole discretion (the “**Acceptable Discount**”), if any. If the Borrower Party elects in its sole discretion to accept any Offered Discount as the Acceptable Discount, then as soon as practicable after the determination of the Acceptable Discount, but in no event later than by the third Business Day after the date of receipt by the Borrower Party from the Auction Agent of a copy of all Solicited Discounted Prepayment Offers pursuant to the first sentence of this clause (2) (the “**Acceptance Date**”), such Borrower Party shall submit an Acceptance and Prepayment Notice to the Auction Agent setting forth the Acceptable Discount. If the Auction Agent shall fail to receive an Acceptance and Prepayment Notice from such Borrower Party by the Acceptance Date, such Borrower Party shall be deemed to have rejected all Solicited Discounted Prepayment Offers.

(2) Based upon the Acceptable Discount and the Solicited Discounted Prepayment Offers received by Auction Agent by the Solicited Discounted Prepayment Response Date, within four (4) Business Days after receipt of an Acceptance and Prepayment Notice (the “**Discounted Prepayment Determination Date**”), the Auction Agent will determine (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) the aggregate principal amount and the Classes of Term Loans (the “**Acceptable Prepayment Amount**”) to be prepaid by the relevant Borrower Party at the Acceptable Discount in accordance with this [Section 2.05\(a\)\(v\)\(D\)](#). If the Borrower Party elects to accept any Acceptable Discount, then the Borrower Party agrees to accept all Solicited Discounted Prepayment Offers received by Auction Agent by the Solicited Discounted Prepayment Response Date, in the order from largest Offered Discount to smallest Offered Discount, up to and including the Acceptable Discount. Each Lender that has submitted a Solicited Discounted Prepayment Offer with an Offered Discount that is greater than or equal to the Acceptable Discount shall be deemed to have irrevocably consented to prepayment of Term Loans equal to its Offered Amount (subject to any required pro-rata reduction pursuant to the following sentence) at the Acceptable Discount (each such Lender, a “**Qualifying Lender**”). The Borrower Party will prepay outstanding Term Loans pursuant to this subclause (D) to each Qualifying Lender in the aggregate principal amount and of the Classes specified in such Lender’s Solicited Discounted Prepayment Offer at the Acceptable Discount; provided that if the aggregate Offered Amount by all Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount exceeds the Solicited Discounted Prepayment Amount, prepayment of the principal amount of the Term Loans for those Qualifying Lenders whose Offered Discount is greater than or equal to the Acceptable Discount (the “**Identified Qualifying Lenders**”) shall be made pro rata among the Identified Qualifying Lenders in accordance with the Offered Amount of each such Identified Qualifying Lender and the Auction Agent (in consultation with such Borrower Party and subject to rounding requirements of the Auction Agent made in its sole reasonable discretion) will calculate such proration (the “**Solicited Discount Proration**”). On or prior to the Discounted Prepayment Determination Date, the Auction Agent shall promptly notify (I) the relevant Borrower Party of the Discounted Prepayment Effective Date and Acceptable Prepayment Amount comprising the Discounted Loan Prepayment and the Classes to be prepaid, (II) each Lender of the Discounted Prepayment Effective Date, the Acceptable Discount, and the Acceptable Prepayment Amount of all Term Loans and the Classes to be prepaid at the Applicable Discount on such date, (III) each Qualifying Lender of the aggregate principal amount and the Classes of such Lender to be prepaid at the Acceptable Discount on such date, and (IV) if applicable, each Identified Qualifying Lender of the Solicited Discount Proration.

Each determination by the Auction Agent of the amounts stated in the foregoing notices to such Borrower Party and Lenders shall be conclusive and binding for all purposes absent manifest error. The payment amount specified in such notice to such Borrower Party shall be due and payable by such Borrower Party on the Discounted Prepayment Effective Date in accordance with subclause (F) below (subject to subclause (J) below).

(E) In connection with any Discounted Loan Prepayment, the Borrowers and the Lenders acknowledge and agree that the Auction Agent may require as a condition to any Discounted Loan Prepayment the payment of customary, reasonable and documented fees and out-of-pocket expenses from a Borrower Party in connection therewith.

(F) If any Term Loan is prepaid in accordance with clauses (B) through (D) above, a Borrower Party shall prepay such Term Loans on the Discounted Prepayment Effective Date without premium or penalty; *provided* that in no event shall the Revolving Credit Facility be utilized to fund any Discounted Loan Prepayment. The relevant Borrower Party shall make such prepayment to the Administrative Agent, for the account of the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, at the Administrative Agent's Office in immediately available funds not later than 2:00 p.m. (New York City time) on the Discounted Prepayment Effective Date and all such prepayments shall be applied to the remaining principal installments of the relevant Class of Term Loans pursuant to Section 2.07(a) in an amount equal to the principal amount of the applicable Term Loans in accordance with Section 2.05(a)(iv); provided that to the extent prepayments are applied to scheduled installments of principal other than in direct order of maturity, the applicable Borrower Party shall so specify in the applicable offer. The Term Loans so prepaid shall be accompanied by all accrued and unpaid interest on the par principal amount so prepaid up to, but not including, the Discounted Prepayment Effective Date. Each prepayment of the outstanding Term Loans pursuant to this Section 2.05(a)(v) shall be paid to the Discount Prepayment Accepting Lenders, Participating Lenders, or Qualifying Lenders, as applicable, and shall be applied to the relevant Term Loans of such Lenders in accordance with their respective Pro Rata Share or other applicable share provided for under this Agreement. The aggregate principal amount of the Classes and installments of the relevant Loans outstanding shall be deemed reduced by the full par value of the aggregate principal amount of the Classes of Term Loans prepaid on the Discounted Prepayment Effective Date in any Discounted Loan Prepayment. In connection with each prepayment pursuant to this Section 2.05(a)(v), the relevant Borrower Party shall either (I) make a representation to the Lenders that it does not possess material non-public information with respect to the Borrowers and the other Subsidiaries or the securities of any of them that has not been disclosed to the Lenders generally (other than Lenders who elect not to receive such information) or (II) disclose that it cannot make such representation, in which case, each assigning Lender shall be deemed to acknowledge and agree that in connection with such assignment, (1) Holdings, the Borrowers and the other Subsidiaries then may have, and later may come into possession of, material non-public information, (2) such Lender has independently and, without reliance on Holdings, the Borrowers or any of the other Subsidiaries (including, without limitation, the applicable Borrower Party), the Administrative Agent or any other Agent-Related Persons, made its own analysis and determination to participate in such assignment notwithstanding such Lender's lack of knowledge of the material non-public information, (3) none of Holdings, the Borrowers or any of the other Subsidiaries shall be required to make any representation that it is not in possession of material non-public information, (4) none of Holdings, the Borrowers or any of the other Subsidiaries (including, without limitation, the applicable Borrower Party), the Administrative Agent or any other Agent-Related Persons shall have any liability to such Lender, and such Lender hereby waives and releases, to the extent permitted by law, any claims such Lender may have against Holdings, the Borrowers or any of the other Subsidiaries (including, without limitation, the applicable Borrower Party), the Administrative Agent and any other Agent-Related Persons, under applicable Laws or otherwise, with respect to the nondisclosure of the material non-public information and (5) that the material non-public information may not be available to the Administrative Agent or the other Lenders.

(G) To the extent not expressly provided for herein, each Discounted Loan Prepayment shall be consummated pursuant to procedures consistent with the provisions in this Section 2.05(a)(v), established by the Auction Agent acting in its reasonable discretion and as reasonably agreed by the applicable Borrower Party.

(H) Notwithstanding anything in any Loan Document to the contrary, for purposes of this Section 2.05(a)(v), each notice or other communication required to be delivered or otherwise provided to the Auction Agent (or its delegate) shall be deemed to have been given upon the Auction Agent's (or its delegate's) actual receipt during normal business hours of such notice or communication; *provided* that any notice or communication actually received outside of normal business hours shall be deemed to have been given as of the opening of business on the next Business Day.

(I) The Borrowers and the Lenders acknowledge and agree that the Auction Agent may perform any and all of its duties under this Section 2.05(a)(v) by itself or through any Affiliate of the Auction Agent and expressly consent to any such delegation of duties by the Auction Agent to such Affiliate and the performance of such delegated duties by such Affiliate. The exculpatory provisions pursuant to this Agreement shall apply to each Affiliate of the Auction Agent and its respective activities in connection with any Discounted Loan Prepayment provided for in this Section 2.05(a)(v) as well as activities of the Auction Agent.

(J) Each Borrower Party shall have the right, by written notice to the Auction Agent, to revoke in full (but not in part) its offer to make a Discounted Loan Prepayment and rescind the applicable Specified Discount Prepayment Notice, Discount Range Prepayment Notice or Solicited Discounted Prepayment Notice therefor at its discretion at any time on or prior to the applicable Specified Discount Prepayment Response Date, Discount Range Prepayment Response Date or Solicited Discounted Prepayment Response Date (and if such offer is revoked pursuant to the preceding clauses, any failure by such Borrower Party to make any prepayment to a Lender, as applicable, pursuant to this Section 2.05(a)(v) shall not constitute a Default under Section 8.01 or otherwise).

(b) Mandatory.

(i) Within fifteen (15) Business Days after the date financial statements are required to be delivered pursuant to Section 6.01(a), the Borrowers shall, subject to clause (b)(vi) of this Section 2.05, prepay an aggregate principal amount of Term Loans in an amount (the '**ECF Payment Amount**') equal to (A) 50.0% (such percentage as it may be reduced as described below, the '**ECF Percentage**') of Excess Cash Flow, if any, for the fiscal year covered by such financial statements (commencing with the fiscal year ending on December 31, 2022) minus (B) the sum of (x) all voluntary prepayments of Term Loans, Refinancing Equivalent Debt and Incremental Equivalent Debt during such fiscal year (to the extent not deducted pursuant to this clause (B) in respect of the prior year) or after such fiscal year end and prior to the time the payment pursuant to this Section 2.05(b) is due (including the amount of any voluntary prepayments or cancellation of Term Loans, Refinancing Equivalent Debt and Incremental Equivalent Debt made at a discount to par (in an amount equal to the discounted amount actually paid in respect of the principal amount of such Indebtedness)) and (y) all voluntary prepayments of Revolving Credit Loans or other revolving credit facilities during such fiscal year (to the extent not deducted pursuant to this clause (B) in respect of the prior year) or after such fiscal year end and prior to the time the payment pursuant to this Section 2.05(b) is due, in each case to the extent the Revolving Credit Commitments or any other revolving credit facility commitments are permanently reduced by the amount of such payments, and in the case of each of the immediately preceding clauses (x) and (y), to the extent such prepayments are not financed with the proceeds

of incurrences of long-term Indebtedness (other than Revolving Credit Borrowings); *provided* that (x) the ECF Percentage shall be 25% if the Total Net Leverage Ratio for the fiscal year covered by such financial statements was less than or equal to 2.25:1.00 and (y) the ECF Percentage shall be 0% if the Total Net Leverage Ratio for the fiscal year covered by such financial statements was less than or equal to 1.25:1.00.

(ii) (A) If (x) Holdings or any Restricted Subsidiary Disposes of any property or assets pursuant to Section 7.05(f) or (j) (or in a Disposition not permitted by this Agreement) or (y) any Casualty Event occurs, which results in the realization or receipt by Holdings or such Restricted Subsidiary of Net Cash Proceeds, the Borrowers shall prepay on or prior to the date which is ten (10) Business Days after the date of the realization or receipt of such Net Cash Proceeds, subject to clause (b)(vi) of this Section 2.05, an aggregate principal amount of Term Loans equal to 100% of all Net Cash Proceeds realized or received; *provided* that if at the time that any such prepayment would be required, any Borrower or any Restricted Subsidiary is required to repay, redeem or repurchase or offer to repay, redeem or repurchase Indebtedness that is secured on a pari passu basis (but without regard to control of remedies) with the Obligations pursuant to the terms of the documentation governing or evidencing such Indebtedness with the net proceeds of such Disposition or Casualty Event (such Indebtedness required to be repaid, redeemed or repurchased or offered to be so repurchased, “**Other Applicable Indebtedness**”), then such Borrower or such Restricted Subsidiary may apply such Net Cash Proceeds on a pro rata basis (determined on the basis of the aggregate outstanding principal amount of the Term Loans and Other Applicable Indebtedness at such time; *provided* that the portion of such Net Cash Proceeds allocated to the Other Applicable Indebtedness shall not exceed the amount of such Net Cash Proceeds required to be allocated to the Other Applicable Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such Net Cash Proceeds shall be allocated to the Term Loans in accordance with the terms hereof) to the prepayment of the Term Loans and to the repurchase, redemption or prepayment of Other Applicable Indebtedness, and the amount of prepayment of the Term Loans that would have otherwise been required pursuant to this Section 2.05(b)(ii)(A) shall be reduced accordingly; *further*, that to the extent the holders of Other Applicable Indebtedness decline to have such indebtedness repurchased, redeemed or prepaid, the declined amount shall promptly (and in any event within ten (10) Business Days after the date of such rejection) be applied to prepay the Term Loans in accordance with the terms hereof; *provided, further*, that no prepayment shall be required pursuant to this Section 2.05(b)(ii)(A) with respect to such portion of such Net Cash Proceeds that the Borrowers shall have, on or prior to the applicable date that prepayment of Term Loans would have otherwise been required pursuant to this Section 2.05(b)(ii)(A), given written notice to the Administrative Agent of its intent to reinvest in accordance with Section 2.05(b)(ii)(B).

(B) With respect to any Net Cash Proceeds realized or received with respect to any Disposition (other than any Disposition specifically excluded from the application of Section 2.05(b)(ii)(A)) or any Casualty Event, at the option of the Lead Borrower, the Borrowers may reinvest all or any portion of such Net Cash Proceeds in assets useful for its or any Restricted Subsidiary’s business (x) within twelve (12) months following receipt of such Net Cash Proceeds or (y) if Holdings, the Borrowers or any other Restricted Subsidiary enters into a legally binding commitment to reinvest such Net Cash Proceeds within twelve (12) months following receipt thereof, within one hundred and eighty (180) days after such twelve (12) month-period; *provided*, that if any Net Cash Proceeds are no longer intended to be or cannot be so reinvested at any time after delivery of a notice of reinvestment election, and subject to clauses (iv) and (vi) of this Section 2.05(b), an amount equal to any such Net Cash Proceeds shall be applied within five (5) Business Days after the Lead Borrower reasonably determines that such Net Cash Proceeds are no longer intended to be or cannot be so reinvested to the prepayment of the Term Loans as set forth in this Section 2.05(b)(ii).

(iii) (A) If any Borrower or any Restricted Subsidiary incurs or issues any Indebtedness not expressly permitted to be incurred or issued pursuant to Section 7.03, the Borrowers shall prepay an aggregate principal amount of Term Loans equal to 100% of all Net Cash Proceeds received therefrom on or prior to the date which is five (5) Business Days after the receipt of such Net Cash Proceeds and (B) if any Borrower incurs or issues any Refinancing Term Loans, Refinancing Revolving Credit Loans, Refinancing Equivalent Debt or Replacement Term Loans to refinance all or a portion of any Class (or Classes) of Loans resulting in Net Cash Proceeds (as opposed to such Refinancing Term Loans, Refinancing Revolving Credit Loans, Refinancing Equivalent Debt or Replacement Term Loans arising out of an exchange or conversion of existing Term Loans or Revolving Credit Loans for or into such Refinancing Term

Loans, Refinancing Revolving Credit Loans, Refinancing Equivalent Debt or Replacement Term Loans), the Borrowers shall cause to be prepaid an aggregate principal amount of such Class (or Classes) of Loans in an amount equal to 100% of the Net Cash Proceeds received therefrom on or prior to the date which is five (5) Business Days after the receipt by the Borrowers of such Net Cash Proceeds.

(iv) Except as may otherwise be set forth in any Refinancing Amendment, any Extension Amendment, any Incremental Amendment or any amendment in respect of Replacement Term Loans, (A) each prepayment of Term Loans pursuant to this Section 2.05(b) shall be applied ratably to each Class of Term Loans (*provided* that (i) any prepayment of Term Loans with the Net Cash Proceeds of, or in exchange for or conversion into, Refinancing Term Loans, Refinancing Revolving Credit Loans, Refinancing Equivalent Debt or Replacement Term Loans shall be applied solely to each applicable Class or Classes of Term Loans being refinanced as selected by the Lead Borrower, and (ii) any Class of Extended Term Loans, Refinancing Term Loans, New Term Loans and Replacement Term Loans may specify that one or more other Classes of Term Loans may be prepaid prior to such Class of Extended Term Loans, Refinancing Term Loans, New Term Loans or Replacement Term Loans), (B) with respect to each Class of Term Loans, each prepayment pursuant to clauses (i) through (iii) of this Section 2.05(b) shall be applied first, to accrued interest and fees due on the amount of such prepayment of such Class of Term Loans, second, to the next eight (8) scheduled installments of principal of such Class of Term Loans in direct order of maturity and third to the remaining scheduled installments of principal (including the final payment thereof due on the applicable maturity date) of such Class of Term Loans on a pro rata basis; and (C) each such prepayment shall be paid to the Appropriate Lenders in accordance with their respective Pro Rata Shares of such prepayment, subject to clauses (vi) and (vii) of this Section 2.05(b).

(v) If for any reason the aggregate Revolving Credit Exposures of any Facility at any time exceeds the aggregate Revolving Credit Commitments then in effect for such Facility (including as a result of the termination of any Revolving Credit Commitments on the applicable Maturity Date thereof), the Borrowers shall promptly prepay or cause to be promptly prepaid Revolving Credit Loans and Swing Line Loans and/or Cash Collateralize the L/C Obligations with respect to such Facility in an aggregate amount equal to such excess; *provided* that the Borrowers shall not be required to Cash Collateralize the L/C Obligations of such Facility pursuant to this Section 2.05(b)(iii) unless after the prepayment in full of the Revolving Credit Loans and Swing Line Loans for such Facility, such aggregate Outstanding Amount exceeds the aggregate Revolving Credit Commitments for such Facility then in effect. After the date of any Extension Amendment (and for so long as the Non-Extended Revolving Credit Commitments and Extended Revolving Credit Commitments resulting from such Extension Amendment (or any Revolving Credit Exposure thereunder) remain outstanding), if for any reason, at any time during the five (5) Business Day period immediately preceding the applicable Maturity Date for any Non-Extended Revolving Credit Commitments, (x) the Non-Extending Revolving Credit Lenders with such Non-Extended Revolving Credit Commitments' Allocable Revolving Share of the Revolving Credit Exposure attributable to L/C Obligations and Swing Line Loans exceeds (y) the amount of the Extended Revolving Credit Commitments minus the Extending Revolving Credit Lenders' Allocable Revolving Share of the total Revolving Credit Exposure at such time, then the Borrowers shall promptly prepay or cause to be promptly prepaid Revolving Credit Loans and Swing Line Loans and/or Cash Collateralize the L/C Obligations in an aggregate amount necessary to eliminate such excess; *provided further* that the Borrowers shall not be required to Cash Collateralize the L/C Obligations pursuant to this sentence unless after the prepayment in full of the Revolving Credit Loans and Swing Line Loans such excess has not been eliminated. Further, if for any reason, at any time during the five (5) Business Day period immediately preceding the applicable Maturity Date for any Class of Revolving Credit Commitments where there exist one or more other Classes of Revolving Credit Commitments with a later Maturity Date or Maturity Dates, and if at such time there are outstanding Letters of Credit under such respective Class or Classes, then the Borrowers shall prepay (in accordance with this Section 2.05) outstanding Revolving Credit Loans and Swing Line Loans and/or Cash Collateralize the L/C Obligations as is needed so that, after giving effect thereto, the Revolving Credit Exposure of the Revolving Credit Lenders with such later Maturity Dates will not, after giving effect to the reallocations which will be required pursuant to Section 2.06(d), exceed the amount of their respective Revolving Credit Commitments as in effect on (and after giving effect to) the Maturity Date of such sooner maturing Revolving Credit Commitments.

(vi) Notwithstanding any other provisions of this Section 2.05(b), (A) to the extent that any or all of the Net Cash Proceeds of any Disposition by a Foreign Subsidiary giving rise to a prepayment event pursuant to Section 2.05(b)(ii) (a “**Foreign Disposition**”), the Net Cash Proceeds of any Casualty Event from a Foreign Subsidiary (a “**Foreign Casualty Event**”) or Excess Cash Flow attributable to Subsidiaries (other than with respect to any Australian Subsidiary) would be prohibited or delayed by (I) applicable local Law or (II) the constituent documents of any Foreign Subsidiary and other material agreements, in any case, from being repatriated to the Borrowers (if repatriation were attempted), an amount equal to the portion of such Net Cash Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.05(b) for so long as (x) the applicable local Law would not permit repatriation to Holdings or the Borrowers (the Lead Borrower hereby agrees to use commercially reasonable efforts to cause the applicable Subsidiary to promptly take all actions reasonably required by the applicable local law to permit such repatriation) or (y) the constituent documents of the applicable Subsidiary (including as a result of minority ownership) or other material agreements will not permit repatriation to Holdings or the Borrowers (and so long as any such prohibition on upstreaming proceeds is not entered into by any Borrower or any Subsidiary principally for the purpose of taking advantage of the foregoing restriction), and once such repatriation of any of such affected Net Cash Proceeds or Excess Cash Flow would be permitted under the applicable local Law or applicable constituent documents or other material agreements, an amount equal to such Net Cash Proceeds or Excess Cash Flow will be promptly (and in any event not later than two (2) Business Days after such repatriation would be permitted) applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Term Loans pursuant to this Section 2.05(b) to the extent provided herein and (B) to the extent that the Lead Borrower has determined in good faith that repatriation of any or all of the Net Cash Proceeds of any Foreign Disposition, any Foreign Casualty Event or Excess Cash Flow attributable to Foreign Subsidiaries would have an adverse tax consequence if repatriation were attempted (other than a *de minimis* amount) (including as a result of the operation of Section 956 of the Code and taking into account any foreign tax credit or benefit actually realized in connection with such repatriation) for Holdings and its Subsidiaries, taken as a whole (as determined in good faith by the Lead Borrower and in consultation with the Administrative Agent), with respect to such Net Cash Proceeds or Excess Cash Flow, an amount equal to the Net Cash Proceeds or Excess Cash Flow so affected will not be required to be applied to repay Term Loans at the times provided in this Section 2.05(b) until such time as it would be permitted to repatriate such amount without incurring such adverse tax consequences (at which time the Borrowers shall make a payment to repay the Term Loans to the extent provided herein). For the avoidance of doubt, nothing in this Section 2.05(b) shall require the repatriation of Excess Cash Flow or Net Proceeds from a Foreign Subsidiary to Holdings or the Borrowers.

(vii) The Lead Borrower shall give notice to the Administrative Agent of any mandatory prepayment of the Term Loans pursuant to Section 2.05(b)(i), (ii) or (iii), at least three (3) Business Days prior to the date on which such payment is due; *provided* that the Lead Borrower may rescind, or extend the date for prepayment specified in, any notice of prepayment under Section 2.05(b)(iii) if such prepayment would have resulted from a refinancing of all or any portion of any Facility or Facilities, which refinancing shall not be consummated or shall otherwise be delayed. Such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment. Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately give notice to each Appropriate Lender of the contents of the Lead Borrower’s prepayment notice and of such Appropriate Lender’s Pro Rata Share or other applicable share provided for under this Agreement of the prepayment. Each Appropriate Lender may elect (in its sole discretion) to decline all (but not less than all) of its Pro Rata Share or other applicable share provided for under this Agreement of the prepayment (such amounts so declined, the “**Declined Amounts**”) of any mandatory prepayment (other than any mandatory prepayment made under Section 2.05(b)(iii)(B)) by giving notice of such election in writing (each, a “**Rejection Notice**”) to the Administrative Agent by 12:00 p.m. (New York City time), on the date that is one (1) Business Day after the date of such Lender’s receipt of notice from the Administrative Agent regarding such prepayment. Each Rejection Notice from a given Lender shall specify the principal amount of the mandatory repayment of Term Loans to be rejected by such Lender. If a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above, or such Rejection Notice fails to specify the principal amount of the Term Loans to be rejected, any such failure will be deemed to constitute an acceptance of such Lender’s Pro Rata Share or other applicable share provided for under this Agreement of the total amount of such mandatory prepayment of Term Loans. Upon receipt by the

Administrative Agent of such Rejection Notice, the Administrative Agent shall immediately notify the Lead Borrower of such election. Any Declined Amount by any Lender shall be retained by the Borrowers and the other Restricted Subsidiaries and/or applied by any Borrower or any of the other Restricted Subsidiaries in any manner not inconsistent with the terms of this Agreement (such Declined Amounts retained and/or applied by the Borrowers and the other Restricted Subsidiaries, the “**Borrower Retained Prepayment Amounts**”).

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

Notwithstanding any of the other provisions of this Section 2.05, so long as no Event of Default shall have occurred and be continuing, if any prepayment of Eurocurrency Rate Loans or BBSY Rate Loans is required to be made under this Section 2.05 prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.05 in respect of any such Eurocurrency Rate Loan or BBSY Rate Loan prior to the last day of the Interest Period therefor, the Borrowers may, in their sole discretion, deposit an amount sufficient to make any such prepayment otherwise required to be made hereunder together with accrued interest to the last day of such Interest Period into a Cash Collateral Account until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from any Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this Section 2.05. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from any Borrower or any other Loan Party) to immediately apply such amount to the prepayment of the outstanding Loans in accordance with the relevant provisions of this Section 2.05.

Section 2.06 Termination or Reduction of Commitments.

(a) **Optional.** The Borrowers may, upon written notice to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class, in each case without premium or penalty; *provided* that (i) any such notice shall be received by the Administrative Agent one (1) Business Day prior to the date of termination or reduction (or, in any case, such shorter period of time as agreed to by the Administrative Agent in its reasonable discretion), (ii) any such partial reduction shall be in an aggregate amount of \$100,000 or any whole multiple of \$100,000 in excess thereof or, if less, the entire amount thereof and (iii) if, after giving effect to any reduction of the Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the Revolving Credit Commitments, then in any such case the Letter of Credit Sublimit or the Swing Line Sublimit shall be automatically reduced by the amount of such excess. Notwithstanding the foregoing, the Lead Borrower may rescind or postpone any notice of termination of the Commitments if such termination would have resulted from a refinancing of all or any portion of any Facility or Facilities, which refinancing shall not be consummated or otherwise shall be delayed.

(b) **Mandatory.** The Initial Term Commitment of each Term Lender shall be automatically and permanently reduced to \$0 upon the making of such Term Lender’s Initial Term Loans pursuant to Section 2.01. The Revolving Credit Commitments shall terminate on the applicable Maturity Date for each such Facility.

(c) **Application of Commitment Reductions; Payment of Fees.** The Administrative Agent will promptly notify the Appropriate Lenders of any termination or reduction of the unused portion of the Letter of Credit Sublimit and the Swing Line Sublimit and all Lenders of the termination or reduction of unused Commitments of any Class under this Section 2.06. Upon any reduction of unused Commitments of any Class, the Commitment of each Lender of such Class shall be reduced by such Lender’s Pro Rata Share of the amount by which such Commitments are reduced (other than the termination of the Commitment of any Lender as provided in Section 3.07). All commitment fees accrued until the effective date of any termination of any Revolving Credit Commitments shall be paid on the effective date of such termination.

(d) Termination of Non-Extended Revolving Credit Commitments. After the date of an Extension Amendment (and for so long as the Non-Extended Revolving Credit Commitments and Extended Revolving Credit Commitments resulting from such Extension Amendment (or any Revolving Credit Exposure thereunder) remain outstanding), on the Maturity Date of any Non-Extended Revolving Credit Commitments resulting from such Extension Amendment, such Non-Extended Revolving Credit Commitments will terminate and the Non-Extending Revolving Credit Lenders with respect thereto will have no further obligation to make Revolving Credit Loans or Swing Line Loans or to fund L/C Advances pursuant to Section 2.03(c); provided that the foregoing will not release any such Non-Extending Revolving Credit Lender from any such obligation to fund Revolving Credit Loans, Swing Line Loans or L/C Advances that were required to be performed on or prior to the Maturity Date of such Non-Extended Revolving Credit Commitments. On the Maturity Date with respect to such Non-Extended Revolving Credit Commitments, all Swing Line Loans and L/C Advances shall be deemed to be outstanding with respect to (and reallocated under) the Extended Revolving Credit Commitments and the Pro Rata Shares or other applicable share provided for under this Agreement of the Revolving Credit Lenders shall be determined after giving effect to the termination of such Non-Extended Revolving Credit Commitments (in each case, subject to Section 2.05(b)(v)). On and after the Maturity Date of such Non-Extended Revolving Credit Commitments, the Extending Revolving Credit Lenders of the applicable Class of Extended Revolving Credit Commitments will be required, in accordance with their Pro Rata Shares or other applicable share provided for under this Agreement, to fund their participation in Swing Line Loans pursuant to Section 2.04(c) and fund L/C Advances pursuant to Section 2.03(c) in respect of Unreimbursed Amounts, in each case, arising on or after such date, regardless of whether any Default existed on the Maturity Date with respect to such Non-Extended Revolving Credit Commitments; provided that the Revolving Credit Exposure of each Extending Revolving Credit Lender does not exceed such Extending Revolving Credit Lender's Revolving Credit Commitment.

(e) Termination of Revolving Credit Commitments. On the Maturity Date of any Class of Revolving Credit Commitments, such Revolving Credit Commitments will terminate and the respective Lenders who held such terminated Revolving Credit Commitments will have no obligation to make, or participate in, extensions of credit (whether the making of Revolving Credit Loans or Swing Line Loans or the issuance of Letters of Credit) made pursuant to such Revolving Credit Commitments after such Maturity Date; provided that, except as expressly provided in the immediately succeeding sentence, (x) the foregoing shall not release any Revolving Credit Lender from liability it may have for its failure to fund Revolving Credit Loans, Swing Line Loans or L/C Advances that were required to be performed by it on or prior to such Maturity Date and (y) the foregoing will not release any Revolving Credit Lender from any obligation to fund its portion of L/C Advances with respect to Letters of Credit or of the risk participation in any Swing Line Loans with respect to Swing Line Loans, issued or made, respectively, prior to such Maturity Date. If on the Maturity Date applicable to any Revolving Credit Commitments there exist additional Revolving Credit Commitments, which have a later Maturity Date or later Maturity Dates, then all Swing Line Loans, L/C Advances and participations in Letters of Credit and Swing Line Loans shall be deemed outstanding with respect to (and reallocated under) such additional Revolving Credit Commitments and the Pro Rata Shares of the Revolving Credit Lenders shall be determined to give effect to the termination of the Revolving Credit Commitments with respect to which the Maturity Date has occurred in each case so long as, after giving effect to such reallocation, no Revolving Credit Lender shall have a Revolving Credit Exposure which exceeds such Lender's Revolving Credit Commitments which have not matured prior to such date.

Section 2.07 Repayment of Loans.

(a) Term Loans. The Borrowers shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders (i) on the last Business Day of each March, June, September and December, commencing with the last Business Day of December, 2021, an aggregate amount equal to (A) with respect to each such payment date occurring on or prior to the last business day of December, 2023, 1.25% of the aggregate principal Dollar Amount of all Initial Term Loans outstanding on the Closing Date, (B) with respect to each such payment date occurring on or prior to the last business day of December, 2025, 1.875% of the aggregate principal Dollar Amount of all Initial Term Loans outstanding on the Closing Date and (C) with respect to each such payment date occurring thereafter, 2.50% of the aggregate principal Dollar Amount of all Initial Term Loans outstanding on the Closing Date (in each case as such repayment amount shall be reduced as a result of the application of prepayments in accordance with the order of priority determined under Section 2.05); provided that at the time of any effectiveness of any Extension Amendment with respect to the Initial Term Loans, the scheduled amortization with respect to the Initial Term Loans set forth above shall be reduced ratably to reflect the percentage of Initial Term Loans converted to Extended Term Loans pursuant to such Extension Amendment (but will not affect the amount of amortization received by a given Lender with outstanding Initial Term Loans), (ii) the amortization for any new Class of Term Loans established pursuant to an Incremental Amendment, a Refinancing Amendment, an Extension Amendment or an

amendment to this Agreement in respect of Replacement Term Loans (if any) as shall be agreed in accordance with the terms and conditions hereof and specified in such Incremental Amendment, Refinancing Amendment, Extension Amendment or amendment to this Agreement in respect of Replacement Term Loans, as applicable, and (iii) on the Maturity Date for each Class of Term Loans, the aggregate principal amount of all such Term Loans outstanding on such date; *provided* that the repayments under this clause may be adjusted to account for the addition of any New Term Loans, including any increase to payments to the extent, and as required pursuant to, the terms of any applicable Incremental Amendment involving a Term Loan Increase to any Class of Term Loans.

(b) Revolving Credit Loans. The Borrowers shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders (i) on the applicable Maturity Date for the Revolving Credit Facilities of a given Class the aggregate principal amount of all of the Revolving Credit Loans of such Class outstanding on such date, (ii) after the date of an Extension Amendment, on the Maturity Date with respect to any Non-Extended Revolving Credit Commitments of a given Class, the aggregate principal amount of all related Non-Extended Revolving Credit Loans of such Class outstanding on such date and (iii) after the date of an Extension Amendment, on the Maturity Date with respect to the Extended Revolving Credit Commitments of a given Class, the aggregate principal amount of all related Extended Revolving Credit Loans of such Class outstanding on such date.

(c) Swing Line Loans. The Borrowers shall repay their Swing Line Loans on the earlier to occur of (i) the date five (5) Business Days after such Swing Line Loan is made and (ii) the Maturity Date for the Revolving Credit Facility.

Section 2.08 Interest. (a) Subject to the provisions of Section 2.08(b), (i) each Eurocurrency Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Adjusted Eurocurrency Rate for such Interest Period plus the Applicable Rate, (ii) each BBSY Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the BBSY Bid for such Interest Period plus the Applicable Rate, (iii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate and (iv) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate for Revolving Credit Loans.

(b) The Borrowers shall pay interest on past due amounts hereunder owing at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws (*provided*, for the avoidance of doubt, that no interest at the Default Rate shall accrue or be payable to a Defaulting Lender so long as such Lender shall be a Defaulting Lender). Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

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

(d) All computations of interest hereunder shall be made in accordance with Section 2.10.

Section 2.09 Fees.

(a) Commitment Fee. With respect to each Class of Revolving Credit Commitments, the Borrowers shall pay to the Administrative Agent (i) for any period prior to the date on which an Extension Amendment becomes effective, for the account of each Revolving Credit Lender under each Class of Revolving Credit Commitments then in effect in accordance with its Pro Rata Share, a commitment fee equal to clause (c) of the Applicable Rate with respect to commitment fees then in effect for each such Class of Revolving Credit Commitments times the actual daily amount by which the aggregate Revolving Credit Commitments for each such Class exceeds the sum of (A) the Outstanding Amount of Revolving Credit Loans (for the avoidance of doubt, excluding any Swing Line Loans) under each such Class and (B) the Outstanding Amount of L/C Obligations for each such Class and (ii) for any period after the date on which an Extension Amendment becomes effective (and for so long as the Non-Extended Revolving Credit Commitments and Extended Revolving Credit Commitments resulting from such

Extension Amendment (or any Revolving Credit Exposure thereunder) remain outstanding), for the account of each Non-Extending Revolving Credit Lender and each Extending Revolving Credit Lender under each Class of Non-Extended Revolving Credit Commitments and Extended Revolving Credit Commitments resulting from such Extension Amendment in accordance with its Other Allocable Share of such Non-Extended Revolving Credit Commitments and such Extended Revolving Credit Commitments, respectively, a commitment fee equal to the Applicable Rate with respect to commitment fees in respect of such Non-Extended Revolving Credit Commitments or the Extended Revolving Credit Commitments, as the case may be, times the Allocable Revolving Share of the Non-Extending Revolving Credit Lenders or the Extending Revolving Credit Lenders, as the case may be, of the actual daily amount by which the aggregate Revolving Credit Commitments for each such Class exceed the sum of (A) the Outstanding Amount of Revolving Credit Loans (for the avoidance of doubt, excluding any Swing Line Loans) under each such Class and (B) the Outstanding Amount of L/C Obligations under each such Class; *provided* that any commitment fee accrued with respect to any of the Revolving Credit Commitments of a Defaulting Lender during the period prior to the time such Lender became a Defaulting Lender and unpaid at such time shall not be payable by the Borrowers so long as such Lender shall be a Defaulting Lender except to the extent that such commitment fee shall otherwise have been due and payable by the Borrowers prior to such time; and provided further that no commitment fee shall accrue on any of the Revolving Credit Commitments under any Facility of a Defaulting Lender so long as such Lender shall be a Defaulting Lender. The commitment fees for the Revolving Credit Facility shall accrue at all times from the date hereof (or from the date on which Revolving Credit Commitments for the applicable Facility come into effect in accordance with the terms hereof) until the Original Revolving Credit Maturity Date or the applicable Maturity Date for such Facility, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the last Business Day of December, 2021, and on the applicable Maturity Date for such Facility (and on the Maturity Date for any Non-Extended Revolving Credit Commitments (with respect to commitment fees accrued for the accounts of Non-Extending Revolving Credit Lenders) and the Maturity Date for Extended Revolving Credit Commitments (with respect to commitment fees accrued for the accounts of Extending Revolving Credit Lenders) for any such Facility in respect of which an Extension Amendment has been effected). The commitment fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(b) Other Fees. The Borrowers shall pay to the Agents and the Lead Arrangers such fees as shall have been separately agreed upon in writing (including pursuant to the Fee Letter) in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Lead Borrower and the applicable Agent or Lead Arranger, as the case may be).

Section 2.10 Computation of Interest and Fees. All computations of interest for Base Rate Loans and BBSY Rate Loans shall be made on the basis of a year of three hundred and sixty-five (365) days or three hundred and sixty-six (366) days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a three hundred and sixty (360) day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; *provided* that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. In computing interest on any Loan, the day such Loan is made or converted to a Loan of a different Type shall be included for purposes of calculating interest on a Loan of such different Type and the date such Loan is subsequently repaid or converted to a Loan of a different Type, as the case may be, shall be excluded. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

Section 2.11 Evidence of Indebtedness. (a) Subject to Section 10.07(c), the Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as a non-fiduciary agent for the Borrowers. The accounts or records maintained by the Administrative Agent and each Lender shall be *prima facie* evidence absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder

to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrowers shall execute and deliver to such Lender (through the Administrative Agent) a Note or Notes payable to such Lender, which shall, subject to Section 10.07(c), evidence such Lender's Loans of the applicable Class or Classes in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

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

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

(d) Notwithstanding anything to the contrary contained above in this Section 2.11 or elsewhere in this Agreement, Notes shall only be delivered to Lenders which at any time specifically request the delivery of such Notes. No failure of any Lender to request, maintain, obtain or produce a Note evidencing its Loans to the Borrowers shall affect or in any manner impair the obligations of the Borrowers to pay the Loans (and all related Obligations) incurred by the Borrowers which would otherwise be evidenced thereby in accordance with the requirements of this Agreement, and shall not in any way affect the security or guarantees therefor provided pursuant to the various Loan Documents.

Section 2.12 Payments Generally. (a) All payments to be made by the Borrowers shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrowers hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office for payment in Dollars and in Same Day Funds not later than 2:00 p.m. (New York City time) on the date specified herein. The Administrative Agent will promptly distribute to each Appropriate Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. (New York City time) shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

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

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

(i) If any Borrower failed to make such payment, each Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in Same Day Funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in Same Day Funds (x) for payments in Dollars, at the Federal Funds Rate from time to time in effect and (y) for payments in Australian Dollars, the rate notified by the Administrative Agent to be that which expresses as a percentage rate per annum, the cost to the Administrative Agent of funding the payment from whatever source it may reasonably select; and

(ii) If any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in Same Day Funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrowers to the date such amount is recovered by the Administrative Agent (the “**Compensation Period**”) at a rate per annum equal to (x) for payments in Dollars, at the Federal Funds Rate from time to time in effect and (y) for payments in Australian Dollars, the rate notified by the Administrative Agent to be that which expresses as a percentage rate per annum, the cost to the Administrative Agent of funding the payment from whatever source it may reasonably select. When such Lender makes payment to the Administrative Agent (together with all accrued interest thereon), then such payment amount (excluding the amount of any interest which may have accrued and been paid in respect of such late payment) shall constitute such Lender’s Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent’s demand therefor, the Administrative Agent may make a demand therefor upon the Borrowers, and the Borrowers shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the Borrowers may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender or the Borrowers with respect to any amount owing under this [Section 2.12\(c\)](#) shall be conclusive, absent manifest error.

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

(e) The obligations of the Lenders hereunder to make Loans and to fund participations in Letters of Credit and Swing Line Loans are several and not joint. The failure of any Lender to make any Loan or to fund any such participation on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

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

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in [Section 8.03](#). If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender’s Pro Rata Share or other applicable share provided for under this Agreement of the sum of (a) the Outstanding Amount of all Loans outstanding at such time and (b) the Outstanding Amount of all L/C Obligations outstanding at such time, in repayment or prepayment of such of the outstanding Loans or other Obligations then owing to such Lender.

(h) Notwithstanding anything to the contrary contained in this Agreement or any other Loan Documents, proceeds that constitute assets of an Affected Subsidiary shall not be applied to any Obligations of a U.S. Person (such Obligations, “**U.S. Obligations**”) unless constituting a payment made by, and at the direction of, a Loan Party. Proceeds that constitute assets of an Affected Subsidiary which are not applied to the U.S. Obligations in accordance with the terms of the immediately preceding sentence shall instead be applied to any Obligations under this Agreement (or any other Loan Documents) of Loan Parties that are not U.S. Persons in the order of priority as otherwise determined pursuant to this Agreement (or any other Loan Documents, as applicable).

Section 2.13 Sharing of Payments, Etc. If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Loans made by it, or the participations in L/C Obligations and Swing Line Loans held by it, any payment (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its Pro Rata Share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) from the other Lenders such participations in the Loans made by them and/or such subparticipations in the participations in L/C Obligations or Swing Line Loans held by them as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans or such participations, as the case may be, with each of them in accordance with their respective Pro Rata Share; *provided* that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender’s Pro Rata Share (according to the proportion of (i) the amount of such paying Lender’s required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The provisions of this clause shall not be construed to apply to (A) any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement as in effect from time to time or (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder. The Borrowers agree that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Laws, exercise all its rights of payment (including the right of setoff, but subject to Section 10.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrowers in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.13 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.13 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

Section 2.14 Incremental Credit Extensions. (a) The Lead Borrower may at any time or from time to time after the Closing Date, by notice to the Administrative Agent (whereupon the Administrative Agent shall promptly deliver a copy to each of the Lenders), request (i) one or more additional tranches of term loans (the “**New Term Loans**”), which may be of the same Class as any existing Class of Term Loans (a “**Term Loan Increase**”) or a separate Class of Term Loans (collectively with any Term Loan Increase, the “**New Term Commitments**”) or (ii) one or more increases in the amount of the Revolving Credit Commitments (each such increase, a “**Revolving Commitment Increase**” or the “**New Revolving Credit Commitments**”); *provided* that (i) except as provided in the immediately following clause (ii), both immediately before and immediately after the effectiveness of any Incremental Amendment referred to below, (A) no Event of Default shall exist and (B) the conditions precedent in Section 4.02(a) shall be satisfied (for this purpose without regard to the exclusion of the applicability of this condition to Borrowings pursuant to Incremental Amendments by operation of the lead-in paragraph of Section 4.02) or (ii) with respect to any incurrence of Loans pursuant to an Incremental Amendment the purpose of which is to finance a Limited Condition Transaction (or if the Required Lenders otherwise consent), (I) no Event of Default shall exist, and the condition precedent in Section 4.02(a) shall be satisfied, in each case as of the date the definitive documentation for such transaction is executed, (II) no Event of Default under Section 8.01(a) or Section 8.01(f) shall have occurred and be continuing after giving effect thereto and (III) the Borrowers shall have satisfied such other conditions to funding as may be required by the applicable Lenders providing the Loans to be funded pursuant to such Incremental Amendment (which conditions described in this clause (III) may be waived or omitted in full or in part by the applicable lenders providing such Loans).

Each tranche of New Term Loans shall be in an aggregate principal amount that is not less than \$1,000,000 (provided that such amount may be less than \$1,000,000 if such lesser amount is approved by the Administrative Agent or such amount represents all remaining availability under the limit set forth in the next sentence) and each New Revolving Credit Commitments shall be in an aggregate principal amount that is not less than \$1,000,000 (provided that such amount may be less than \$1,000,000 if such lesser amount is approved by the Administrative Agent or such amount represents all remaining availability under the limit set forth in the next sentence). Notwithstanding anything to the contrary herein, the aggregate principal amount of the New Term Loans at the time of incurrence or issuance thereof, when added to the aggregate principal amount of New Revolving Credit Commitments and any Incremental Equivalent Debt incurred or issued substantially simultaneously with the incurrence of such New Term Loans and/or New Revolving Credit Commitments, as applicable, shall not exceed the Available Incremental Amount at the time of incurrence or issuance thereof.

(b) The terms and provisions of New Term Commitments or New Revolving Credit Commitments, as the case may be (and the Loans in respect of the foregoing), of any Class shall be as agreed between the Lead Borrower and the lenders providing such New Term Commitments or New Revolving Credit Commitment; *provided*, that:

(i) [reserved],

(ii) New Term Loans shall not mature earlier than the Original Term Loan Maturity Date (prior to any extension thereto),

(iii) New Term Loans shall have a Weighted Average Life to Maturity of no less than the Weighted Average Life to Maturity as then in effect for the Initial Term Loans (prior to any extension thereto),

(iv) (x) the currency, discounts, premiums, fees, optional prepayment and redemptions terms and, subject to clauses (ii) and (iii) above, the maturity date and amortization schedule, in each case, applicable to any New Term Loans shall be determined by the Borrowers and the Lenders thereunder, and (y) the New Revolving Credit Commitments shall be on the same terms (excluding OID, upfront fees and arrangement, structuring or other fees payable in connection therewith) and pursuant to the same documentation applicable to the Revolving Credit Facility,

(v) the interest rate (including margin and floors) applicable to any New Term Loans will be determined by the Borrowers and the Lenders providing such New Term Loans; *provided* that if the All-In Yield applicable to any such New Term Loans exceeds the All-In Yield of the Initial Term Loans made on the Closing Date at such time by more than 50 basis points, then the interest rate margins for the Initial Term Loans shall be increased to the extent necessary so that the All-In Yield of the Initial Term Loans is equal to the All-In Yield of such New Term Loans minus 50 basis points; *provided* that any increase in All-In Yield to any Initial Term Loan due solely to the application or imposition of a Eurocurrency Rate or Base Rate floor on any New Term Loan shall be effected, at the Lead Borrower's option, (x) through an increase in (or implementation of, as applicable) any Eurocurrency Rate or Base Rate floor applicable to such Initial Term Loan, (y) through an increase in the Applicable Rate for such Initial Term Loan or (z) any combination of (x) and (y) above, and in each case, solely to the extent that the application or imposition of such floor would cause an increase in the interest rate then in effect under the Initial Term Loans,

(vi) the New Term Loans may provide for the ability to participate on a pro rata basis or less than pro rata basis (but not greater than a pro rata basis) in any voluntary repayments or prepayments of principal of Term Loans hereunder and on a pro rata basis or less than a pro rata basis (but not greater than a pro rata basis except in the case of a prepayment of such New Term Loans under Section 2.05(b)(i)(B)) in any mandatory repayments or prepayments of principal of Term Loans hereunder,

(vii) [Reserved],

(viii) [Reserved],

(ix) except as set forth above, terms of any such New Term Commitments (and the Loans in respect thereof) shall be no more favorable to the New Lenders than those applicable to the Term Loans (except for (1) covenants or other provisions applicable only to periods after the Latest Maturity Date of the Term Loans, and (2) pricing, fees, rate floors, premiums, optional prepayment or redemption terms); *provided* that (A) except as provided in preceding clauses (i) through (vi), the terms and conditions applicable to such New Term Commitments, New Term Loans, New Revolving Credit Commitments and New Revolving Credit Loans may be different from those of the Term Loans and the Revolving Credit Loans, as applicable, to the extent either (x) such differences are reasonably acceptable to the Administrative Agent or (y) reflect market terms and conditions at the time of incurrence or issuance thereof as determined by the Lead Borrower and the Administrative Agent (it being understood that those terms differing from those with respect to the Term Loans and the Revolving Credit Loans, as applicable, that are applicable only to periods after the Latest Maturity Date of the Term Loans and the Revolving Credit Loans, as applicable, are acceptable) and (B) in the case of a Term Loan Increase or a Revolving Commitment Increase, the terms, provisions and documentation of such Term Loan Increase or a Revolving Commitment Increase shall be identical (other than with respect to upfront fees and OID and arrangement, structuring, underwriting, ticking or similar fees payable in connection therewith) to the applicable Term Loans or Revolving Credit Commitments being increased, in each case, as existing on the respective Incremental Facility Closing Date.

(c) Each notice from the Lead Borrower pursuant to this Section shall set forth the requested amount and proposed terms of the relevant New Term Loans or New Revolving Credit Commitments and the date on which the Lead Borrower proposes that the same shall be effective (each, an “**Incremental Amount Date**”). New Term Loans may be made, and New Revolving Credit Commitments may be provided, by any existing Lender (but no existing Lender shall have any obligation to make a portion of any New Term Loan or to provide any portion of any New Revolving Credit Commitments) or by any Additional Lender; *provided*, that no Additional Lender that is an Affiliated Lender or an Affiliated Debt Fund, shall be permitted to make or provide (x) New Revolving Credit Commitments or (y) New Term Loans, unless the requirements of Section 10.07(h) and (i) (as applicable) shall be met, assuming that the making or provision of such New Term Loans is an assignment of such New Term Loans to such Person. Commitments in respect of New Term Loans and New Revolving Credit Commitments shall become Commitments (or in the case of a New Revolving Credit Commitments to be provided by an existing Revolving Credit Lender, an increase in such Lender’s applicable Revolving Credit Commitment) under this Agreement pursuant to an amendment (an “**Incremental Amendment**”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Lead Borrower, each existing Lender agreeing to provide such Commitment, if any, each Additional Lender agreeing to provide such Commitment, if any, and the Administrative Agent. The Incremental Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Lead Borrower, to effect the provisions of this Section 2.14. The effectiveness of (and, in the case of any Incremental Amendment for New Term Loans or New Revolving Credit Commitments, any Credit Extension under) any Incremental Amendment shall be subject to the satisfaction on the date thereof (each, an “**Incremental Facility Closing Date**”) of each of the conditions as the Lead Borrower and the Lenders providing such Commitment shall agree, including, to the extent reasonably requested by the Administrative Agent, receipt by the Administrative Agent of (a) (i) customary officer’s certificates and board resolutions and (ii) customary opinions of counsel to the Loan Parties, in each case, consistent with those delivered on the Closing Date (other than changes to legal opinions resulting from a change in law, change in fact or change to counsel’s form of opinion reasonably satisfactory to the Administrative Agent) and (b) supplemental or reaffirmation agreements and/or such amendments to the Collateral Documents and/or the Guaranty as may be reasonably requested by the Administrative Agent (including Mortgage amendments (if applicable)) in order to ensure that any New Term Commitment or New Revolving Credit Commitments (as applicable) are provided with the benefit of the applicable Loan Documents. The Borrowers shall use the proceeds (if any) of the New Term Loans, New Revolving Credit Commitments and Letters of Credit issued pursuant to any New Revolving Credit Commitments for any purpose not prohibited by this Agreement. No Lender shall be obligated to provide any New Term Loans or New Revolving Credit Commitments unless it so agrees.

(d) Upon any Incremental Facility Closing Date on which New Revolving Credit Commitments are effected through the establishment of a new Class of Revolving Credit Commitments pursuant to this Section 2.14, (i) if, on such date, there are any Revolving Credit Loans under any other Class of Revolving Credit Commitments then outstanding, such Revolving Credit Loans shall be prepaid from the proceeds of a new Borrowing of the New Revolving Credit Loans under such new Class of New Revolving Credit Commitments in such amounts as shall be necessary in order that, after giving effect to such Borrowing and all such related prepayments, all Revolving Credit Loans under all Revolving Credit Facilities then existing (including such New Revolving Credit Commitments) will be held by all Lenders under all such Revolving Credit Facilities (including New Revolving Credit Lenders) ratably in accordance with their respective Pro Rata Shares under all Revolving Credit Facilities (after giving effect to the establishment of such New Revolving Credit Commitments), (ii) in the case of any other Revolving Credit Commitment then existing, there shall be an automatic adjustment to the participations hereunder in Letters of Credit and Swing Line Loans held by each Lender under such Revolving Credit Facilities so that each such Lender shares ratably in such participations in accordance with their respective Pro Rata Shares under all Revolving Credit Commitments (after giving effect to the establishment of such New Revolving Credit Commitments), (iii) each New Revolving Credit Commitment shall be deemed for all purposes a Revolving Credit Commitment and each Loan made thereunder shall be deemed, for all purposes, a Revolving Credit Loan and (iv) each New Revolving Credit Lender shall become a Lender with respect to the New Revolving Credit Commitments and all matters relating thereto. Upon any Incremental Facility Closing Date on which New Revolving Credit Commitments are effected through a Revolving Commitment Increase, if, on the date of such increase, there are any Revolving Credit Loans outstanding under the applicable Class, each of the Revolving Credit Lenders under such Class shall assign to each of the New Revolving Credit Lenders, and each of the New Revolving Credit Lenders shall purchase from each of the Revolving Credit Lenders under such Class, at par, such interests in the Revolving Credit Loans outstanding under such Class on such Incremental Facility Closing Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Credit Loans under such Class will be held by existing Revolving Credit Lenders under such Class and New Revolving Credit Lenders under such Class in accordance with their respective Pro Rata Shares under such Class after giving effect to the addition of such New Revolving Credit Commitments to the Revolving Credit Commitments under such Class. The Administrative Agent and the Lenders hereby agree that neither the minimum borrowing and prepayment requirements in Sections 2.02 and 2.05(a) of this Agreement, nor Section 2.13, shall apply to the transactions effected pursuant to the two preceding sentences.

(e) Any New Term Commitment (other than with respect to the Term Loan Increase) shall be designated a separate Class of Term Loans for all purposes of this Agreement. This Section 2.14 shall supersede any provisions in Section 2.05, Section 2.12, Section 2.13, Section 8.03 or Section 10.01 to the contrary.

Section 2.15 Refinancing Amendments. (a) The Lead Borrower may, at any time or from time to time after the Closing Date, by notice to the Administrative Agent (a “**Refinancing Loan Request**”), request (A) (i) the establishment of one or more new Classes of term loans under this Agreement (any such new Class, “New Refinancing Term Commitments”) or (ii) increases to one or more existing Classes of term loans under this Agreement (any such increase to an existing Class, collectively with New Refinancing Term Commitments, “Refinancing Term Commitments”), or (B) increases to one or more existing Classes of Revolving Credit Commitments (any such increase to an existing Class, “Refinancing Revolving Credit Commitments”, and collectively with any Refinancing Term Commitments, “**Refinancing Commitments**”), in each case, established in exchange for, or to extend, renew, replace, repurchase, retire or refinance, in whole or in part, as selected by the Lead Borrower, any one or more then existing Class or Classes of Loans or Commitments (with respect to a particular Refinancing Commitment or Refinancing Loan, such existing Loans or Commitments, “**Refinanced Debt**”), whereupon the Administrative Agent shall promptly deliver a copy of each such notice to each of the Lenders.

(b) Any Refinancing Term Loans made pursuant to New Refinancing Term Commitments made on a Refinancing Facility Closing Date shall be designated a separate Class of Refinancing Term Loans or Refinancing Revolving Credit Commitments, as applicable, for all purposes of this Agreement. On any Refinancing Facility Closing Date on which any Refinancing Term Commitments of any Class are effected, subject to the satisfaction of the terms and conditions in this Section 2.15, (i) each Refinancing Term Lender of such Class shall make a Term Loan to the Borrowers (a “**Refinancing Term Loan**”) in an amount equal to its Refinancing Term Commitment of such Class and (ii) each Refinancing Term Lender of such Class shall become a Lender hereunder with respect to the Refinancing Term Commitment of such Class and the Refinancing Term Loans of such Class made pursuant thereto. On any Refinancing Facility Closing Date on which any Refinancing Revolving Credit

Commitments of any Class are effected, subject to the satisfaction of the terms and conditions in this Section 2.15, (i) each Refinancing Revolving Credit Lender of such Class shall make its Refinancing Revolving Credit Commitment available to the Borrowers (any Loan incurred thereunder, a “**Refinancing Revolving Credit Loan**” and collectively with any Refinancing Term Loan, a “**Refinancing Loan**”) and (ii) each Refinancing Revolving Credit Lender of such Class shall become a Lender hereunder with respect to the Refinancing Revolving Credit Commitment of such Class and the Refinancing Revolving Credit Loans of such Class made pursuant thereto.

(c) Each Refinancing Loan Request from the Lead Borrower pursuant to this Section 2.15 shall set forth the requested amount and proposed terms of the relevant Refinancing Term Loans or Refinancing Revolving Credit Commitments and identify the Refinanced Debt with respect thereto. Refinancing Term Loans may be made, and Refinancing Revolving Credit Commitments may be provided, by any existing Lender (but no existing Lender shall have any obligation to make any portion of any Refinancing Term Loan or any obligation to provide any portion of any Refinancing Revolving Credit Commitments) or by any Additional Lender; *provided*, that no Additional Lender that is an Affiliated Lender or an Affiliated Debt Fund, shall be permitted to make or provide (x) Refinancing Revolving Credit Commitments or (y) Refinancing Term Loans unless the requirements of Section 10.07(h) and (i) (as applicable) shall be met, assuming that the making or provision of such Refinancing Term Loans is an assignment of such Refinancing Term Loans to such Person (each such existing Lender or Additional Lender providing such Commitment or Loan, a “**Refinancing Revolving Credit Lender**” or “**Refinancing Term Lender**,” as applicable, and, collectively, “**Refinancing Lenders**”).

(d) The effectiveness of any Refinancing Amendment, and the Refinancing Commitments thereunder, shall be subject to the satisfaction on the date thereof (a “**Refinancing Facility Closing Date**”) of each of the following conditions, together with any other conditions set forth in such Refinancing Amendment:

(i) after giving effect to such Refinancing Commitments, the conditions of Section 4.02(a) and (b) shall be satisfied (it being understood that all references to “the date of such Credit Extension” or similar language in such Section 4.02 shall be deemed to refer to the applicable Refinancing Facility Closing Date),

(ii) each Refinancing Commitment shall be in an aggregate principal amount that is not less than \$1,000,000 (provided that such amount may be less than \$1,000,000 if such amount is equal to (x) the entire outstanding principal amount of Refinanced Debt that is in the form of Term Loans or (y) the entire outstanding principal amount of Refinanced Debt (or commitments with respect thereto) that is in the form of Revolving Credit Commitments and/or Revolving Credit Exposure thereunder),

(iii) to the extent reasonably requested by the Administrative Agent, the receipt by the Administrative Agent of (A) (I) customary officer’s certificates and board resolutions and (II) customary opinions of counsel to the Loan Parties, in each case, consistent with those delivered on the Closing Date (other than changes to legal opinions resulting from a change in law, change in fact or change to counsel’s form of opinion reasonably satisfactory to the Administrative Agent) and (B) supplemental or reaffirmation agreements and/or such amendments to the Collateral Documents as may be reasonably requested by the Administrative Agent (including Mortgage amendments, if applicable) in order to ensure that any Refinancing Term Commitment or Refinancing Revolving Credit Commitments (as applicable) are provided with the benefit of the applicable Loan Documents, and

(iv) the Refinancing Term Loans made pursuant to any increase in any existing Class of Term Loans shall be added to (and form part of) each Borrowing of outstanding Term Loans under the respective Class so incurred on a pro rata basis (based on the principal amount of each Borrowing) so that each Lender under such Class will participate proportionately in each then outstanding Borrowing of Term Loans under such Class in accordance with its Pro Rata Share.

(e) The terms and provisions of the Refinancing Term Commitments or Refinancing Revolving Credit Commitments, as the case may be (and the Loans in respect of the foregoing), of any Class shall be as agreed between the Lead Borrower and the lenders providing such Refinancing Term Commitments or Refinancing Revolving Credit Commitment; *provided*, that:

(i) if secured, such Refinancing Term Commitments and Refinancing Revolving Credit Commitments may not be (I) secured by any assets other than Collateral or (II) guaranteed by any Person other than a Guarantor or (III) secured by security documentation that is more restrictive to the Borrowers and the Guarantors than the Loan Documents;

(ii) Refinancing Term Loans shall not mature earlier than the Maturity Date of the applicable Refinanced Debt as then in effect;

(iii) Refinancing Term Loans shall have a Weighted Average Life to Maturity of no less than the Weighted Average Life to Maturity as then in effect for the applicable Refinanced Debt;

(iv) (x) the currency, discounts, premiums, fees, optional prepayment and redemptions terms and, subject to clauses (ii) and (iii) above, the amortization schedule applicable to any Refinancing Term Loans shall be determined by the Lead Borrower and the Lenders thereunder, and (y) the currency, discounts, premiums, fees and optional prepayment and redemptions terms applicable to any Refinancing Revolving Credit Commitments shall be determined by the Lead Borrower and the Lenders thereunder;

(v) the interest rate (including margin and floors) applicable to any Refinancing Term Loans or Refinancing Revolving Credit Commitments will be determined by the Lead Borrower and the Lenders providing such Refinancing Term Loans or such Refinancing Revolving Credit Commitments;

(vi) the Refinancing Term Loans may provide for the ability to participate on a pro rata basis or less than pro rata basis (but not greater than a pro rata basis) in any voluntary repayments or prepayments of principal of Term Loans hereunder and on a pro rata basis or less than a pro rata basis (but not greater than a pro rata basis except in the case of a prepayment under Section 2.05(b)(i)(B)) in any mandatory repayments or prepayments of principal of Term Loans hereunder;

(vii) the Maturity Date of any Class of Refinancing Revolving Credit Commitments shall be no earlier than the maturity of the applicable Refinanced Debt and will require no scheduled amortization or mandatory commitment reduction prior to the maturity of the applicable Refinanced Debt;

(viii) with respect to any Refinancing Revolving Credit Commitments, (1) the borrowing and repayment (except for (A) payments of interest and fees at different rates on Refinancing Revolving Credit Commitments (and related outstandings), (B) repayments required upon the Maturity Date of any Revolving Credit Commitments and (C) repayments made in connection with a permanent repayment and termination of commitments (subject to clause (3) below)) of Revolving Credit Loans with respect to Refinancing Revolving Credit Commitments after the associated Refinancing Facility Closing Date shall be made on a pro rata basis with all other Revolving Credit Commitments, (2) subject to the provisions of Section 2.06(d) to the extent dealing with Swing Line Loans or Letters of Credit which mature or expire after a Maturity Date when there exist Revolving Credit Commitments with a later Maturity Date, all Swing Line Loans and Letters of Credit shall be participated by all Lenders with Revolving Credit Commitments (including, without limitation, such New Revolving Credit Commitments) in accordance with their respective Pro Rata Shares of the Revolving Credit Commitments (and except as provided in Section 2.06(d), without giving effect to changes thereto on an earlier Maturity Date with respect to Swing Line Loans theretofore incurred and Letters of Credit theretofore issued) and (3) the permanent repayment of Revolving Credit Loans with respect to, and termination of, Refinancing Revolving Credit Commitments after the associated Refinancing Facility Closing Date shall be made on a pro rata basis with all other Revolving Credit Commitments, except that the Borrowers shall be permitted, in their sole discretion, to permanently repay and terminate commitments of any such Class on greater than a pro rata basis (x) as compared to any other Class with a later Maturity Date than such Class and (y) as compared to any other Class in connection with the refinancing thereof with Refinancing Revolving Credit Commitments;

(ix) Refinancing Term Loans shall not have a greater principal amount than the principal amount of the applicable Refinanced Debt plus any accrued but unpaid interest and fees on such Refinanced Debt plus existing commitments unutilized under such Refinanced Debt to the extent permanently terminated at the time of incurrence of such new Indebtedness plus the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such Refinanced Debt and any defeasance costs and any reasonable fees and expenses (including OID, upfront fees and arrangement, underwriting, structuring or other similar fees) incurred in connection with the issuance of such Refinancing Term Loans;

(x) Refinancing Revolving Credit Commitments shall not have a greater principal amount of Commitments than the principal amount of the utilized Commitments of the applicable Refinanced Debt plus any accrued but unpaid interest and fees on such Refinanced Debt plus existing commitments unutilized under such Refinanced Debt to the extent permanently terminated at the time of incurrence of such new Indebtedness plus the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such Refinanced Debt and any defeasance costs and any reasonable fees and expenses (including OID, upfront fees and arrangement, underwriting, structuring or other similar fees) incurred in connection with the issuance of such Refinancing Revolving Credit Commitments or Refinancing Revolving Credit Loans,

(xi) except as set forth above, the material terms and conditions of any such Refinancing Term Commitments or Refinancing Revolving Credit Commitments (and the Loans in respect thereof) shall be (taken as a whole) no more favorable (as reasonably determined by the Lead Borrower in good faith) to the Refinancing Lenders providing such Refinancing Term Commitments or Refinancing Revolving Credit Commitments, as applicable, than those applicable to the applicable Refinanced Debt (except for (1) covenants or other provisions applicable only to periods after the Maturity Date of the applicable Refinanced Debt and (2) pricing, fees, rate floors, premiums, optional prepayment or redemption terms) unless such terms and conditions reflect market terms and conditions for such Refinancing Term Commitments or Refinancing Revolving Credit Commitments, as applicable, at the time of incurrence or issuance thereof (in each case, as determined by the Lead Borrower and the Administrative Agent in good faith), and

(xii) notwithstanding the foregoing, Refinancing Term Commitments of the kind described in Section 2.15(a)(A)(ii) (and the Refinancing Term Loans made pursuant thereto) and Refinancing Revolving Credit Commitments of the kind described in Section 2.15(a)(B)(ii) (and the Refinancing Revolving Credit Loans made pursuant thereto) shall form part of the same Class as, and have identical terms to, the applicable Class of Term Loans or Revolving Credit Commitments (as applicable) to which they apply.

(f) Commitments in respect of Refinancing Term Loans and Refinancing Revolving Credit Commitments shall become Commitments under this Agreement pursuant to an amendment (a “**Refinancing Amendment**”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Lead Borrower, each existing Lender agreeing to provide such Commitment, if any, each Additional Lender agreeing to provide such Commitment, if any, and the Administrative Agent. The Refinancing Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Lead Borrower, to effect the provisions of this Section 2.15. The Borrowers will use the proceeds, if any, of the Refinancing Term Loans and Refinancing Revolving Credit Commitments in exchange for, or to extend, renew, replace, repurchase, retire or refinance, and shall permanently terminate applicable commitments under, the applicable Refinanced Debt, in each case, in accordance with Section 2.05(b)(i)(B).

(g) Upon any Refinancing Facility Closing Date on which Refinancing Revolving Credit Commitments are effected through the establishment of a new Class of Revolving Credit Commitments pursuant to this Section 2.15, (a) if, on such date, there are any Revolving Credit Loans under any Class of Revolving Credit Commitments then outstanding, such Revolving Credit Loans shall be prepaid from the proceeds of a new Borrowing of the Refinancing Revolving Credit Loans under such new Class of Refinancing Revolving Credit Commitments in such amounts as shall be necessary in order that, after giving effect to such Borrowing and all such related prepayments, all Revolving Credit Loans under all Revolving Credit Facilities then existing (including such Refinancing Revolving Credit Commitments) will be held by all Lenders under all such Revolving Credit Facilities (including Lenders providing such Refinancing Revolving Credit Commitments) ratably in accordance with their respective Pro Rata Share under all Revolving Credit Facilities (after giving effect to the establishment of such

Refinancing Revolving Credit Commitments), (b) in the case of any other Revolving Credit Commitment then existing, there shall be an automatic adjustment to the participations hereunder in Letters of Credit and Swing Line Loans held by each Lender under such Revolving Credit Facilities so that each such Lender shares ratably in such participations in accordance with their respective Pro Rata Shares under all Revolving Credit Commitments (after giving effect to the establishment of such Refinancing Revolving Credit Commitments), (c) each Refinancing Revolving Credit Commitment shall be deemed for all purposes a Revolving Credit Commitment and each Loan made thereunder shall be deemed, for all purposes, a Revolving Credit Loan and (d) each Refinancing Revolving Credit Lender shall become a Lender with respect to the Refinancing Revolving Credit Commitments and all matters relating thereto. Upon any Refinancing Facility Closing Date on which Refinancing Revolving Credit Commitments are effected through the increase to any existing Class of Revolving Credit Commitments pursuant to this Section 2.15, if, on the date of such increase, there are any Revolving Credit Loans outstanding under the applicable Class, each of the Revolving Credit Lenders under such Class shall be deemed to assign to each of the Refinancing Revolving Credit Lenders, and each of the Refinancing Revolving Credit Lenders shall purchase from each of the Revolving Credit Lenders under such Class, at par, such interests in the Revolving Credit Loans outstanding under such Class on such Refinancing Facility Closing Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Credit Loans under such Class will be held by existing Revolving Credit Lenders under such Class and Refinancing Revolving Credit Lenders under such Class in accordance with their respective Pro Rata Shares under such Class after giving effect to the addition of such Refinancing Revolving Credit Commitments to the Revolving Credit Commitments under such Class. The Administrative Agent and the Lenders hereby agree that neither the minimum borrowing and prepayment requirements in Sections 2.02 and 2.05(a) of this Agreement, nor Section 2.13, shall apply to the transactions effected pursuant to the two preceding sentences.

(h) Any New Refinancing Term Commitment or New Refinancing Revolving Credit Commitment shall be designated a separate Class of Term Loans or Revolving Credit Commitments, as applicable, for all purposes of this Agreement.

(i) In lieu of incurring any Refinancing Term Loans, the Lead Borrower may, upon notice to the Administrative Agent, at any time or from time to time after the Closing Date issue, incur or otherwise obtain (A) secured Indebtedness in the form of one or more series of senior secured notes that are secured on a pari passu basis with the Obligations (but without regard to the control of remedies) (such notes, “**Permitted Pari Passu Secured Refinancing Debt**”), (B) secured Indebtedness in the form of one or more series of second lien (or other junior lien) secured notes or second lien (or other junior lien) secured loans (such notes or loans, “**Permitted Junior Secured Refinancing Debt**”) and (C) senior unsecured or subordinated unsecured Indebtedness in the form of one or more series of unsecured or subordinated notes or loans (such notes or loans, “**Permitted Unsecured Refinancing Debt**” and together with Permitted Pari Passu Secured Refinancing Debt and Permitted Junior Secured Refinancing Debt, “**Refinancing Equivalent Debt**”), in each case, in exchange for, or to extend, renew, replace, repurchase, retire or refinance, in whole or in part, any existing Class or Classes of Loans (such Loans, “**Refinanced Loans**”).

(i) Any Refinancing Equivalent Debt:

(A) (1) shall not have a final scheduled maturity date earlier than the Maturity Date of the Refinanced Loans, (2) shall not have a Weighted Average Life to Maturity shorter than the remaining Weighted Average Life to Maturity of the applicable Refinanced Loans, (3) shall not be guaranteed by Persons other than Guarantors, (4) if in the form of subordinated Permitted Unsecured Refinancing Debt, shall be subject to a subordination agreement or provisions as reasonably agreed by the Administrative Agent and the Lead Borrower, (5) shall not have a greater principal amount than the principal amount of the Refinanced Loans plus any accrued but unpaid interest and fees on such Refinanced Loans plus existing commitments utilized under such Refinanced Loans to the extent permanently terminated at the time of incurrence of such new Indebtedness plus the amount of any tender premium or penalty or premium required to be paid under the terms of the instrument or documents governing such Refinanced Loans and any defeasance costs and any reasonable fees and expenses (including OID, upfront fees or similar fees) incurred in connection with the issuance of such Refinancing Equivalent Debt, and (6) the covenants and events of default applicable to such Refinancing Equivalent Debt shall not be, when taken as a whole, materially more favorable, to the holders of such Indebtedness than those applicable to the Refinanced Loans (except for covenants or other provisions applicable only to periods after the Maturity Date for such Refinanced Loans) unless such covenants and events of default for such Refinancing Equivalent Debt are reflective of market terms and conditions for the type of Indebtedness incurred or issued at the time of issuance or incurrence thereof (in each case, as determined by the

Lead Borrower and the Administrative Agent in good faith); *provided* that a certificate of the Lead Borrower delivered to the Administrative Agent at least three (3) Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material covenants of such Indebtedness or drafts of the documentation relating thereto, stating that the Lead Borrower has reasonably determined in good faith that such covenants and defaults satisfy the foregoing requirement shall be conclusive evidence that such covenants and defaults satisfy the foregoing requirement unless the Administrative Agent notifies the Lead Borrower within such three (3) Business Day period that it disagrees with such determination (including a reasonably detailed description of the basis upon which it disagrees).

(B) (1) if either Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt, shall be subject to security agreements substantially the same as the Collateral Documents (with such differences as are appropriate to reflect the nature of such Refinancing Equivalent Debt and are otherwise reasonably satisfactory to the Administrative Agent and the Lead Borrower), (2) if Permitted Pari Passu Secured Refinancing Debt, (x) shall be secured by all or a portion of the Collateral on a pari passu basis (but without regard to control of remedies) with the Obligations and shall not be secured by any property or assets other than the Collateral, and (y) shall be subject to a First Lien Intercreditor Agreement or to other customary intercreditor arrangements reasonably acceptable to the Lead Borrower and the Administrative Agent, and (3) if Permitted Junior Secured Refinancing Debt, (x) shall be secured by all or a portion of the Collateral on a second priority (or other junior priority) basis to the Liens securing the Obligations and shall not be secured by any property or assets other than the Collateral, and (y) shall be subject to a Second Lien Intercreditor Agreement or to other customary intercreditor agreements or arrangements reasonably acceptable to the Lead Borrower and the Administrative Agent.

(C) shall be incurred, and the proceeds thereof used, solely to repay, repurchase, retire or refinance the Refinanced Loans and terminate the corresponding commitments thereunder in accordance with Section 2.05(b)(i)(B).

(j) This Section 2.15 shall supersede any provisions in Section 2.05, Section 2.12, Section 2.13, Section 8.03 or Section 10.01 to the contrary.

Section 2.16 [Reserved].

Section 2.17 Extended Term Loans. (a) The Lead Borrower may at any time and from time to time request that all or a portion of the Term Loans of a given Class (each, an “**Existing Term Loan Facility**”) be converted to extend the scheduled maturity date(s) of any payment of principal with respect to all or a portion of any principal amount of such Loans (any such Term Loans which have been so converted, “**Extended Term Loans**”) and to provide for other terms consistent with this Section 2.17. In order to establish any Extended Term Loans, the Lead Borrower shall provide an Extension Request to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Term Loan Facility) setting forth the proposed terms of the Extended Term Loans to be established, which shall (x) be identical as offered to each Lender under such applicable Existing Term Loan Facility (including as to the proposed interest rates and fees payable, but excluding any arrangement, structuring, underwriting, ticking, consent, amendment or other similar fees payable in connection therewith that are not generally shared with the relevant Lenders) and offered to each Lender under such Existing Term Loan Facility in accordance with its Pro Rata Share with respect thereto and (y) be identical to the Term Loans under the Existing Term Loan Facility from which such Extended Term Loans are to be converted, except that: (i) the scheduled amortization payments of principal, if any, and/or scheduled final maturity date of the Extended Term Loans shall be as set forth in the applicable Extension Amendment, subject to the provisos below, (ii) the All-In Yield with respect to the Extended Term Loans (whether in the form of interest rate margin, upfront fees, funding discounts, OID, prepayment premiums or otherwise) may be different than the All-In Yield for the Term Loans of such Existing Term Loan Facility, in each case, to the extent provided in the applicable Extension Amendment, (iii) the applicable Extension Amendment may provide for other covenants and terms that apply solely to any period after the Latest Maturity Date that is in effect on the effective date of the Extension Amendment (immediately prior to the establishment of such Extended Term Loans), and (iv) Extended Term Loans may have optional prepayment terms (including call protection and prepayment premiums) and mandatory repayment terms (other than as to scheduled amortization and final maturity date) as may be agreed by the Lead Borrower and the Lenders thereof; *provided* that no Extended Term Loans may be optionally prepaid or mandatorily repaid (other than scheduled amortization and in the case of a prepayment under Section 2.05(b)(iii)(B)) prior to the date on which all Term Loans with an earlier final stated maturity (including Term Loans

under the Existing Term Loan Facility from which they were converted) are repaid in full, unless such prepayment or repayment is in accordance with the theretofore existing provisions of this Agreement or is accompanied by at least a pro rata prepayment or repayment of such other Term Loans, as applicable; *provided, further*, that (A) in no event shall the final maturity date of any Extended Term Loans of a given Term Loan Extension Series at the time of establishment thereof be earlier than the final maturity of the Existing Term Loan Facility being extended and (B) scheduled amortization applicable to such Extended Term Loans shall not exceed (or occur on different dates than) the scheduled amortization (exclusive of payments required at maturity) which previously applied to the Term Loans that are being extended (which regular amortization in the same amounts (or lesser amounts, if agreed by the applicable Extending Term Lenders) may continue after the final maturity of the Existing Term Loan Facility being extended) at any time prior to the final maturity of the Existing Term Loan Facility being extended. Any Class of Extended Term Loans converted pursuant to any Extension Request shall be designated a series (each, a “**Term Loan Extension Series**”) of Extended Term Loans for all purposes of this Agreement; *provided* that any Extended Term Loans converted from an Existing Term Loan Facility may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Term Loan Extension Series (in which case scheduled amortization with respect thereto shall be proportionally increased). Each Term Loan Extension Series of Extended Term Loans incurred under this Section 2.17 shall be in an aggregate principal amount that is not less than \$1,000,000 (or, in the case of any Class of Term Loans with an entire outstanding principal amount of less than \$1,000,000 that is to be extended in full, such outstanding principal amount) (unless such extension is made pursuant to clause (e) below) and the Borrowers may impose an Extension Minimum Condition with respect to any Extension Request for Extended Term Loans, which may be waived by the Lead Borrower in its sole discretion.

(b) The Lead Borrower shall provide the applicable Extension Request (which may be in the form of a term sheet posted to a website for the benefit of the Lenders) at least five (5) Business Days prior to the date on which Lenders under the Existing Term Loan Facility are requested to respond (although any changes to terms previously announced shall only require two (2) Business Days’ notice), and shall agree to such procedures, if any, as may be reasonably requested by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.17. No Lender shall have any obligation to agree to have any of its Term Loans of any Existing Term Loan Facility converted into Extended Term Loans pursuant to any Extension Request or offer made pursuant to clause (e) below. Any Lender (each, an “**Extending Term Lender**”) wishing to have all or a portion of its Term Loans under the Existing Term Loan Facility subject to such Extension Request converted into Extended Term Loans shall notify the Administrative Agent (each, a “**Term Loan Extension Election**”) on or prior to the date specified in such Extension Request of the amount of its Term Loans under the Existing Term Loan Facility which it has elected to request be converted into Extended Term Loans (subject to any customary minimum denomination requirements imposed by the Administrative Agent). In the event that the aggregate principal amount of Term Loans under the Existing Term Loan Facility in respect of which applicable Term Lenders shall have accepted the relevant Extension Request exceeds the amount of Extended Term Loans requested to be extended pursuant to the Extension Request, Term Loans subject to Term Loan Extension Elections shall be converted to Extended Term Loans on a pro rata basis (subject to rounding by the Administrative Agent, which shall be conclusive) based on the aggregate principal amount of Term Loans included in each such Term Loan Extension Election.

(c) Extended Term Loans shall be established pursuant to an Extension Amendment amending the terms of this Agreement among the Lead Borrower, the Administrative Agent and each Extending Term Lender providing an Extended Term Loan thereunder, which shall be consistent with the provisions set forth in Section 2.17(a) above and reasonably satisfactory to the Administrative Agent. Each such Extension Amendment shall include representations (x) as to the accuracy of representations and warranties set forth in Article V of this Agreement and in the other Loan Documents in all material respects immediately before and after giving effect to such Extension Amendment and the transactions contemplated thereby and (y) that no Default shall have occurred and be continuing as of the effective date of such Extension Amendment, after giving effect to such Extension Amendment and the transactions contemplated thereby. The effectiveness of any Extension Amendment shall be subject to any applicable Extension Minimum Condition (unless waived by the Lead Borrower) and, to the extent reasonably requested by the Administrative Agent, be subject to receipt by the Administrative Agent of (i) customary board resolutions and officers’ certificates consistent with those delivered on the Closing Date, (ii) customary opinions of counsel to the Loan Parties consistent with those delivered on the Closing Date (other than changes to legal opinions resulting from a change in law, change in fact or change in counsel’s form of opinion reasonably acceptable to the Administrative Agent) and (iii) supplemental or reaffirmation agreements and/or such amendments to the Collateral Documents and/or the Guaranty as may be reasonably requested by the Administrative Agent in order to ensure that the Extended

Term Loans are provided with the benefit of the applicable Loan Documents. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each such Extension Amendment. Each of the parties hereto hereby (A) agrees that, notwithstanding anything to the contrary set forth in Section 10.01, this Agreement and the other Loan Documents may be amended pursuant to an Extension Amendment, without the consent of any other Lenders, to the extent reasonably required to (i) reflect the existence and terms of the Extended Term Loans incurred pursuant thereto (including changes and additional terms as agreed by the relevant Lenders and permitted pursuant to Section 2.17(a)) and (ii) effect such other amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Lead Borrower, to effect the provisions of this Section 2.17, and the Lenders hereby expressly and irrevocably, for the benefit of all parties hereto, authorize the Administrative Agent to enter into such Extension Amendment and (B) consents to the transactions contemplated by this Section 2.17 (including payment of interest, fees or premiums in respect of any Extended Term Loans on such terms as may be set forth in the relevant Extension Amendment).

(d) No conversion of Loans pursuant to any Term Loan Extension in accordance with this Section 2.17 shall constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

(e) Notwithstanding anything to the contrary contained above, at any time following the establishment of a Term Loan Extension Series (and so long as the last sentence of Section 2.17(b) was not applicable thereto), the Borrowers may offer any Lender of the relevant Existing Term Loan Facility (without being required to make the same offer to any or all other Lenders) who failed to make a Term Loan Extension Election in respect of all or a portion of its Term Loans on or prior to the date specified in the Extension Request relating to such Term Loan Extension Series the right to convert all or any portion of its Term Loans under the respective Existing Term Loan Facility into Extended Term Loans under such Term Loan Extension Series; *provided* that (A) such offer and any related acceptance (x) shall be in accordance with such procedures, if any, as may be reasonably requested by, or acceptable to, the Administrative Agent, (y) shall be on identical terms (including as to the proposed interest rates and fees payable, but excluding any arrangement, structuring, underwriting, ticking, consent and amendment or other fees payable in connection therewith that are not generally shared with the relevant Lenders) to those offered to the Lenders who agreed to convert their Term Loans under the Existing Term Loan Facility into Extended Term Loans pursuant to the respective Extension Request and (z) shall result in proportionate increases to the scheduled amortization payments, if any, otherwise owing with respect to the Term Loan Extension Series, (B) any Lender which agrees to an extension pursuant to this clause (e) shall enter into a joinder agreement to the respective Extension Amendment in form and substance reasonably satisfactory to the Administrative Agent and the Lead Borrower and executed by such Lender, the Administrative Agent and the Lead Borrower (and the Lenders hereby irrevocably authorize the Administrative Agent to enter into any such joinder agreement) and (C) the Term Loans of any such Lender that are converted pursuant to this clause (e) shall be in an aggregate principal amount that is not less than \$1,000,000 (or, if the amount of such Lender's outstanding Term Loans is less than \$1,000,000, such lesser amount), unless each of the Lead Borrower and the Administrative Agent otherwise consents.

(f) In the event that the Administrative Agent determines in its sole discretion that the allocation of Extended Term Loans of a given Term Loan Extension Series to a given Lender was incorrectly determined as a result of manifest administrative error in the receipt and processing of a Term Loan Extension Election timely submitted by such Lender in accordance with the procedures set forth in the applicable Extension Amendment, then the Administrative Agent, the Lead Borrower and such affected Lender may (and hereby are authorized to), in their sole discretion and without the consent of any other Lender, notwithstanding anything to the contrary set forth in Section 10.01, enter into an amendment to this Agreement and the other Loan Documents (each, a "**Corrective Term Loan Extension Amendment**") within 15 days following the effective date of such Extension Amendment, which Corrective Term Loan Extension Amendment shall (i) provide for the conversion and extension of Term Loans under the applicable Existing Term Loan Facility in such amount as is required to cause such Lender to hold Extended Term Loans of the applicable Term Loan Extension Series into which such other Term Loans were initially converted, in the amount such Lender would have held had such administrative error not occurred and had such Lender received the minimum allocation of the applicable Loans or Commitments to which it was entitled under the terms of such Extension Amendment in the absence of such error, (ii) be subject to the satisfaction of such conditions as the Administrative Agent, the Lead Borrower and such Lender may agree (including conditions of the type required to be satisfied for the effectiveness of an Extension Amendment described in Section 2.17(c)), and (iii) effect such other amendments of the type (with appropriate reference and nomenclature changes) described in the last sentence of Section 2.17(c).

(g) This Section 2.17 shall supersede any provisions in Section 2.05, Section 2.12, Section 2.13, Section 8.03 or Section 10.01 to the contrary.

Section 2.18 **Extended Revolving Credit Commitments**. (a) The Lead Borrower may at any time and from time to time request that all or a portion of the Revolving Credit Commitments (and related Revolving Credit Loans and other related extensions of credit) of a given Class (each, an “**Existing Revolving Credit Loan Facility**”) be converted to extend the scheduled maturity date(s) with respect to all or a portion of such Revolving Credit Commitments (any such Revolving Credit Commitments which have been so converted, “**Extended Revolving Credit Commitments**,” and the revolving loans thereunder, “**Extended Revolving Credit Loans**”) and to provide for other terms consistent with this Section 2.18. In order to establish any Extended Revolving Credit Commitments, the Lead Borrower shall provide an Extension Request to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders under the applicable Existing Revolving Credit Loan Facility) setting forth the proposed terms of the Extended Revolving Credit Commitments to be established, which shall (x) be identical as offered to each Lender under such applicable Existing Revolving Credit Loan Facility (including as to the proposed interest rates and fees payable, but excluding any arrangement, structuring, underwriting, ticking, consent and amendment or other similar fees payable in connection therewith that are not generally shared with the relevant Lenders) and offered to each Lender under such Existing Revolving Credit Loan Facility in accordance with its Pro Rata Share with respect thereto and (y) be identical to the Revolving Credit Commitments under the Existing Revolving Credit Loan Facility from which such Extended Revolving Credit Commitments are to be converted, except that: (i) the scheduled amortization payments, if any, of principal, scheduled or mandatory commitment reductions and/or scheduled final maturity date, and the unused line fee in respect, of the Extended Revolving Credit Loans shall be as set forth in the applicable Extension Amendment, subject to the provisos below, (ii) the All-In Yield with respect to the Extended Revolving Credit Loans (whether in the form of interest rate margin, upfront fees, funding discounts, OID, prepayment premiums or otherwise) may be different than the All-In Yield for the Revolving Credit Loans of such Existing Revolving Credit Loan Facility, in each case, to the extent provided in the applicable Extension Amendment, (iii) the applicable Extension Amendment may provide for other covenants and terms that apply solely to any period after the Latest Maturity Date that is in effect on the effective date of the Extension Amendment and (iv) Extended Revolving Credit Commitments may have optional prepayment terms (including call protection and prepayment premiums) and mandatory commitment reduction and repayment terms as may be agreed by the Lead Borrower and the Lenders thereof; *provided* that no Extended Revolving Credit Loans or Extended Revolving Credit Commitments, as applicable, may be optionally prepaid or mandatorily repaid (other than scheduled amortizations and in connection with the refinancing thereof with Refinancing Revolving Credit Commitments) or subject to mandatory commitment reductions prior to the Maturity Date which applied to the respective Existing Revolving Credit Loan Facility with respect to which the Extension Request is being made, unless such prepayment, repayment and/or commitment reduction is in accordance with the theretofore existing provisions of this Agreement or is accompanied by at least a pro rata prepayment, repayment and/or commitment reduction, as the case may be, of such other Revolving Credit Loans or Revolving Credit Commitments, as applicable; *provided, further*, that in no event shall the final maturity date of any Extended Revolving Credit Loans of a given Revolving Credit Loan Extension Series at the time of establishment thereof be earlier than the Maturity Date which applied to the respective Existing Revolving Credit Loan Facility with respect to which the Extension Request is being made. Any Class of Extended Revolving Credit Commitments converted pursuant to any Extension Request shall be designated a series (each, a “**Revolving Credit Loan Extension Series**”) of Extended Revolving Credit Commitments for all purposes of this Agreement; *provided* that any Extended Revolving Credit Commitments converted from an Existing Revolving Credit Loan Facility may, to the extent provided in the applicable Extension Amendment, be designated as an increase in any previously established Revolving Credit Loan Extension Series. Each Revolving Credit Loan Extension Series of Extended Revolving Credit Commitments incurred under this Section 2.18 shall be in an aggregate amount that is not less than \$1,000,000 or, if an extension on substantially similar terms is concurrently made to Revolving Credit Commitments with the same existing maturity, then the aggregate amount for such Classes of Loans extended shall not be less than \$1,000,000 (or, in the case of any Class of Revolving Credit Commitments with an entire outstanding principal amount of less than \$1,000,000 that is to be extended in full, such outstanding principal amount) (unless, in either case, such extension is made pursuant to clause (e) below) and the Borrowers may impose an Extension Minimum Condition with respect to any Extension Request for Extended Revolving Credit Commitments, which may be waived by the Lead Borrower in its sole discretion.

(b) The Lead Borrower shall provide the applicable Extension Request (which may be in the form of a term sheet posted to a website for the benefit of the Lenders) at least five (5) Business Days prior to the date on which Lenders under the Existing Revolving Credit Loan Facility are requested to respond (although any changes to terms previously announced shall only require two (2) Business Days' notice), and shall agree to such procedures, if any, as may be reasonably requested by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.18. No Lender shall have any obligation to agree to have any of its Revolving Credit Commitments of any Existing Revolving Credit Loan Facility converted into Extended Revolving Credit Commitments pursuant to any Extension Request or offer made pursuant to clause (e) below. Any Lender (each, an "**Extending Revolving Credit Lender**") wishing to have all or a portion of its Revolving Credit Commitments under the Existing Revolving Credit Loan Facility subject to such Extension Request converted into Extended Revolving Credit Commitments shall notify the Administrative Agent (each, a "**Revolving Credit Extension Election**") on or prior to the date specified in such Extension Request of the amount of its Revolving Credit Commitments under the Existing Revolving Credit Loan Facility which it has elected to request be converted into Extended Revolving Credit Commitments (subject to any customary minimum denomination requirements imposed by the Administrative Agent). In the event that the aggregate amount of Revolving Credit Commitments under the Existing Revolving Credit Loan Facility in respect of which applicable Revolving Credit Lenders shall have accepted the relevant Extension Request exceeds the amount of Extended Revolving Credit Commitments requested to be extended pursuant to the Extension Request, Revolving Credit Commitments subject to Revolving Credit Extension Elections shall be converted to Extended Revolving Credit Commitments on a pro rata basis (subject to rounding by the Administrative Agent, which shall be conclusive) based on the aggregate amount of Revolving Credit Commitments included in each such Revolving Credit Extension Election.

(c) Extended Revolving Credit Commitments shall be established pursuant to an Extension Amendment amending the terms of this Agreement among the Lead Borrower, the Administrative Agent, each Extending Revolving Credit Lender providing an Extended Revolving Credit Commitment thereunder and, to the extent required by Section 10.01, the L/C Issuer and the Swing Line Lender, which shall be consistent with the provisions set forth in Section 2.18(a) above and reasonably satisfactory to the Administrative Agent. Each such Extension Amendment shall include representations (x) as to the accuracy of representations and warranties set forth in Article V of this Agreement and in the other Loan Documents in all material respects immediately before and after giving effect to such Extension Amendment and the transactions contemplated thereby and (y) that no Default shall have occurred and be continuing as of the effective date of such Extension Amendment, after giving effect to such Extension Amendment and the transactions contemplated thereby. The effectiveness of any such Extension Amendment shall be subject to any applicable Extension Minimum Condition (unless waived by the Lead Borrower) and, to the extent reasonably requested by the Administrative Agent, be subject to receipt by the Administrative Agent of (i) customary board resolutions and officers' certificates consistent with those delivered on the Closing Date, (ii) customary opinions of counsel to the Loan Parties consistent with those delivered on the Closing Date (other than changes to legal opinions resulting from a change in law, change in fact or change in counsel's form of opinion reasonably acceptable to the Administrative Agent) and (iii) supplemental or reaffirmation agreements and/or such amendments to the Collateral Documents and/or the Guaranty as may be reasonably requested by the Administrative Agent in order to ensure that the Extended Revolving Credit Commitments are provided with the benefit of the applicable Loan Documents. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each such Extension Amendment. Each of the parties hereto hereby (A) agrees that, notwithstanding anything to the contrary set forth in Section 10.01, this Agreement and the other Loan Documents may be amended pursuant to an Extension Amendment, without the consent of any other Lenders, to the extent reasonably required to (i) reflect the existence and terms of the Extended Revolving Credit Commitments incurred pursuant thereto (including changes and additional terms as agreed by the relevant Lenders and permitted pursuant to Section 2.18(a)) and (ii) effect such other amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Lead Borrower, to effect the provisions of this Section, and the Lenders hereby expressly and irrevocably, for the benefit of all parties hereto, authorize the Administrative Agent to enter into such Extension Amendment and (B) consents to the transactions contemplated by this Section 2.18 (including, for the avoidance of doubt, payment of interest, fees or premiums in respect of any Extended Revolving Credit Commitments on such terms as may be set forth in the relevant Extension Amendment).

(d) No conversion of Revolving Credit Commitments (and related Revolving Credit Loans) pursuant to any Extension Amendment in accordance with this Section 2.18 shall constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

(e) Notwithstanding anything to the contrary contained above, at any time following the establishment of a Revolving Credit Loan Extension Series (and so long as the last sentence of Section 2.18(b) was not applicable thereto), the Borrowers may offer any Lender of the relevant Existing Revolving Credit Loan Facility (without being required to make the same offer to any or all other Lenders) who failed to make a Revolving Credit Extension Election in respect of all or a portion of its Revolving Credit Commitments on or prior to the date specified in the Extension Request relating to such Revolving Credit Loan Extension Series the right to convert all or any portion of its Revolving Credit Commitments (and related extensions of credit) under the respective Existing Revolving Credit Loan Facility into Extended Revolving Credit Commitments (and related extensions of credit) under such Revolving Credit Loan Extension Series; *provided* that (A) such offer and any related acceptance (x) shall be in accordance with such procedures, if any, as may be reasonably requested by, or acceptable to, the Administrative Agent and (y) shall be on identical terms (including as to the proposed interest rates and fees payable, but excluding any arrangement, structuring, underwriting, ticking, consent and amendment or other fees payable in connection therewith that are not generally shared with the relevant Lenders) to those offered to the Lenders who agreed to convert their Revolving Credit Commitments under the Existing Revolving Credit Loan Facility into Extended Revolving Credit Commitments pursuant to the respective Extension Request, (B) any Lender which agrees to an extension pursuant to this clause (e) shall enter into a joinder agreement to the respective Extension Amendment in form and substance reasonably satisfactory to the Administrative Agent and the Lead Borrower and executed by such Lender, the Administrative Agent and the Lead Borrower (and the Lenders hereby irrevocably authorize the Administrative Agent to enter into any such joinder agreement) and (C) the Extended Revolving Credit Commitments of any such Lender that are converted pursuant to this clause (e) shall be in an aggregate amount that is not less than \$1,000,000 (or, if the amount of such Lender's outstanding Revolving Credit Commitments is less than \$1,000,000, such lesser amount), unless each of the Lead Borrower and the Administrative Agent otherwise consents.

(f) In the event that the Administrative Agent determines in its sole discretion that the allocation of Extended Revolving Credit Commitments of a given Revolving Credit Loan Extension Series to a given Lender was incorrectly determined as a result of manifest administrative error in the receipt and processing of a Revolving Credit Extension Election timely submitted by such Lender in accordance with the procedures set forth in the applicable Extension Amendment, then the Administrative Agent, the Lead Borrower and such affected Lender may (and hereby are authorized to), in their sole discretion and without the consent of any other Lender, enter into an amendment to this Agreement and the other Loan Documents (each, a "**Corrective Revolving Credit Extension Amendment**") within 15 days following the effective date of such Extension Amendment, which Corrective Revolving Credit Extension Amendment shall (i) provide for the conversion and extension of Extended Revolving Credit Commitments of the applicable Revolving Credit Loan Extension Series into which such other Revolving Credit Commitments were initially converted, in the amount such Lender would have held had such administrative error not occurred and had such Lender received the minimum allocation of the applicable Loans or Commitments to which it was entitled under the terms of such Extension Amendment in the absence of such error, (ii) be subject to the satisfaction of such conditions as the Administrative Agent, the Lead Borrower and such Lender may agree (including conditions of the type required to be satisfied for the effectiveness of an Extension Amendment described in Section 2.18(c)), and (iii) effect such other amendments of the type (with appropriate reference and nomenclature changes) described in the last sentence of Section 2.18(c).

(g) This Section 2.18 shall supersede any provisions in Section 2.05, Section 2.12, Section 2.13, Section 8.03 or Section 10.01 to the contrary.

Section 2.19 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender of a given Class is a Defaulting Lender:

(a) **Waivers and Amendments.** That Defaulting Lender's right to approve or disapprove any amendment, modification, waiver or consent with respect to this Agreement shall be restricted as set forth in the definitions of Required Lenders, Required Facility Lenders, Required Term Lenders and Required Revolving Credit Lenders;

(b) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article III or otherwise) shall not be paid or distributed to that Defaulting Lender, but will instead be retained by the Administrative Agent in a segregated non-interest bearing account until the Termination Date and shall be applied at such time or times as may be reasonably determined by the Administrative Agent and the Lead Borrower as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to any L/C Issuer or the Swing Line Lender hereunder; third, if so determined by the Administrative Agent or requested by the applicable L/C Issuer, the Swing Line Lender or the Lead Borrower, as applicable, to be held as Cash Collateral for future funding obligations of that Defaulting Lender of any participation in any Letter of Credit or Swing Line Loan; fourth, as the Lead Borrower may request (so long as no Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement; fifth, if so determined by the Administrative Agent and the Lead Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy potential future obligations of that Defaulting Lender to fund Loans under this Agreement; sixth, to the payment of any amounts owing to the Lenders, any L/C Issuer or the Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any L/C Issuer or the Swing Line Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; seventh, to the payment of any amounts owing to the Borrowers as a result of any judgment of a court of competent jurisdiction obtained by the Lead Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and eighth, after the Termination Date, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or L/C Borrowings were made at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Borrowings owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Borrowings owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.19(b) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto;

(c) Certain Fees. That Defaulting Lender shall not be entitled to receive any commitment fee pursuant to Section 2.09 for any period during which that Lender is a Defaulting Lender (and the Borrowers shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(d) if any Letter of Credit Exposure exists, or any Swing Line Loan is outstanding, at the time a Revolving Credit Lender of a given Class becomes a Defaulting Lender then:

(i) all or any part of such Letter of Credit Exposure or outstanding Swing Line Loans shall be reallocated, for each applicable Class or Facility, among the Revolving Credit Lenders that are Non-Defaulting Lenders, in respect of such Class or Facility, in accordance with their respective Revolving Credit Percentages but only to the extent (x) the sum of the Revolving Credit Exposures of all Revolving Credit Lenders that are Non-Defaulting Lenders in respect of such Class or Facility plus such Defaulting Lender's Letter of Credit Exposure does not exceed the aggregate amount of all Non-Defaulting Lenders' Revolving Credit Commitments for the applicable Class or Facility and (y) immediately following the reallocation to a Revolving Credit Lender that is a Non-Defaulting Lender, the Revolving Credit Exposure of such Revolving Credit Lender does not exceed its Revolving Credit Commitment for the applicable Class or Facility at such time;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrowers shall, within two (2) Business Days following notice by the Administrative Agent, Cash Collateralize in a manner reasonably satisfactory to the applicable L/C Issuer or Swing Line Lender, as applicable, such Defaulting Lender's Letter of Credit Exposure or Pro Rata Share or other allocable share of any outstanding Swing Line Loan, as applicable (in each case, after giving effect to any partial reallocation pursuant to clause (i) above), in an aggregate amount equal to 100% of such Defaulting Lender's Letter of Credit Exposure or Pro Rata Share or other allocable share of any such Swing Line Loan, as applicable, for so long as such Letter of Credit Exposure or such Swing Line Loan, as applicable, is outstanding;

(iii) the Borrowers shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.03(i) with respect to such Defaulting Lender's Letter of Credit Exposure;

(iv) if the Letter of Credit Exposure of the Non-Defaulting Lenders is reallocated pursuant to this Section 2.19(d), then the fees payable to the Revolving Credit Lenders of the applicable Class pursuant to Section 2.03(i) shall be adjusted in accordance with such Non-Defaulting Lenders' Revolving Credit Percentages; and

(v) if any Defaulting Lender's Letter of Credit Exposure is neither Cash Collateralized nor reallocated pursuant to this Section 2.19(d), then, without prejudice to any rights or remedies of any L/C Issuer or any Revolving Credit Lender hereunder, all letter of credit fees payable under Section 2.03(i) with respect to such Defaulting Lender's Letter of Credit Exposure shall be payable to each L/C Issuer until such Letter of Credit Exposure is Cash Collateralized and/or reallocated;

(e) Notwithstanding anything to the contrary contained in Section 2.03 or Section 2.04, so long as any Revolving Credit Lender is a Defaulting Lender (i) no L/C Issuer shall be required to issue, amend, extend or increase any Letter of Credit and the Swing Line Lender shall not be required to fund any Swing Line Loan, in each case, unless it is satisfied that the related exposure will be 100% covered by the Revolving Credit Commitments of the Non-Defaulting Lenders and/or Cash Collateral has been provided by the Borrowers in accordance with Section 2.19(d)(ii), and (ii) participating interests in any such newly issued or increased Letter of Credit or newly made Swing Line Loan shall be allocated among Revolving Credit Lenders of the applicable Class that are Non-Defaulting Lenders in a manner consistent with Section 2.19(d)(i) (and Defaulting Lenders shall not participate therein); and

(f) In the event that the Administrative Agent, the Borrowers, the Swing Line Lender and each L/C Issuer each agrees that a Defaulting Lender has adequately remedied all matters that caused such Revolving Credit Lender to be a Defaulting Lender, then (i) the Letter of Credit Exposure of the Revolving Credit Lenders of the applicable Class shall be readjusted to reflect the inclusion of such Revolving Credit Lender's Revolving Credit Commitments and on such date such Revolving Credit Lender shall purchase at par such of the Revolving Credit Loans of the other Revolving Credit Lenders as the Administrative Agent shall determine may be necessary in order for such Revolving Credit Lender to hold such Revolving Credit Loans in accordance with its Revolving Credit Percentage (*provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while that Lender was a Defaulting Lender; and *further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender) and (ii) so long as no Event of Default then exists, all funds held as Cash Collateral pursuant to Section 2.19(d)(ii) shall thereafter be promptly returned to the Borrowers. If the Revolving Credit Commitments have been terminated, all other Obligations in respect of the Revolving Credit Facility have been paid in full and no Letters of Credit are outstanding, then all funds held as Cash Collateral shall thereafter be promptly returned to the Borrowers.

Section 2.20 Lead Borrower. Each Borrower hereby irrevocably appoints AKA as the Lead Borrower, and AKA hereby accepts such appointment and agrees to act under this Agreement and the other Loan Documents, as the agent and representative of each Borrower (including itself) for all purposes under this Agreement and the other Loan Documents, including, without limitation, (i) executing amendments hereto, promissory notes, submitting borrowing requests, conversion or continuation notices, disbursement instructions, reports, information, or any other notice or communication to be made or given by any of them under this Agreement or any other Loan Document, and (ii) receiving account statements and other notices and communications to any of them from the Administrative Agent or any Lender. With prior written notice to the Lead Borrower, the Borrowers may designate any other Borrower as Lead Borrower under this Agreement and the other Loan Documents and such successor Lead Borrower shall assume all rights and obligations of the prior Lead Borrower.

Section 2.21 Designated Borrowers.

(a) **Designated Borrowers.** The Lead Borrower may at any time, upon not less than fifteen (15) Business Days' notice from the Lead Borrower to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), request to designate any Subsidiary of the Lead Borrower organized under the laws of the United States or Australia or such other jurisdiction reasonably acceptable to the Lead Borrower and the Administrative Agent (an "**Applicant Borrower**") as a Designated Borrower to receive Loans hereunder by delivering to the Administrative Agent (which shall promptly deliver counterparts thereof to each Lender) a Designated Borrower Request and Assumption Agreement. The parties hereto acknowledge and agree that prior to

any Applicant Borrower becoming entitled to utilize the credit facilities provided for herein (i) the Administrative Agent and the Lenders that are to provide Commitments and/or Loans in favor of an Applicant Borrower must each agree to such Applicant Borrower becoming a Designated Borrower and (ii) the Administrative Agent and such Lenders shall have received such supporting resolutions, incumbency certificates and other information, in form and substance reasonably satisfactory to the Administrative Agent, as may be required by the Administrative Agent, and Notes signed by such Applicant Borrower to the extent any Lender so requires (the requirements in clauses (i) and (ii) hereof, the “**Designated Borrower Requirements**”). If the Designated Borrower Requirements are met, the Administrative Agent shall send a Designated Borrower Notice to the Lead Borrower and the Lenders specifying the effective date upon which the Applicant Borrower shall constitute a Designated Borrower for purposes hereof, whereupon each of the Lenders agrees to permit such Designated Borrower to receive Loans hereunder, on the terms and conditions set forth herein, and each of the parties hereto agrees that such Designated Borrower otherwise shall be a Borrower for all purposes of this Agreement; *provided* that no Loan Notice or Letter of Credit Application may be submitted by or on behalf of such Designated Borrower until the date five (5) Business Days after such effective date (or such shorter period as may be agreed by the Administrative Agent in its sole discretion).

(b) **Obligations.** Except as specifically provided herein, the Obligations of the Lead Borrower and each of the other Borrowers shall be joint and several in nature (unless such joint and several liability (i) shall result in adverse tax consequences to any such Designated Borrower or (ii) is not permitted by any Law applicable to such Designated Borrower, in which either such case, the liability of such Designated Borrower shall be several in nature) regardless of which such Person actually receives Credit Extensions hereunder or the amount of such Credit Extensions received or the manner in which the Administrative Agent, the L/C Issuer or any Lender accounts for such Credit Extensions on its books and records.

(c) **Appointment.** Each Subsidiary of the Lead Borrower that is or becomes a “Designated Borrower” pursuant to thisSection 2.21 hereby irrevocably appoints the Lead Borrower to act as its agent for all purposes of this Agreement and the other Loan Documents and agrees that (i) the Lead Borrower may execute such documents on behalf of such Designated Borrower as the Lead Borrower deems appropriate in its sole discretion and each Designated Borrower shall be obligated by all of the terms of any such document executed on its behalf, (ii) any notice or communication delivered by the Administrative Agent or the Lender to the Lead Borrower shall be deemed delivered to each Designated Borrower and (iii) the Administrative Agent or the Lenders may accept, and be permitted to rely on, any document, instrument or agreement executed by the Lead Borrower on behalf of each Designated Borrower.

ARTICLE III TAXES, ADDITIONAL PAYMENTS PROTECTION AND ILLEGALITY

Section 3.01 **Taxes.** (a) Except as required by Laws, any and all payments by any Borrower or any Guarantor to or for the account of any Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges imposed by any Governmental Authority, and all liabilities (including additions to tax, penalties and interest) with respect thereto, excluding, in the case of each Agent and each Lender, (i) taxes imposed on or measured by net income (however denominated), franchise and branch profits taxes imposed (A) by the jurisdiction (or any political subdivision thereof) under the Laws of which such Agent or Lender is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, or (B) by reason of any connection between such Agent or Lender and any taxing jurisdiction other than a connection arising solely by having executed or entered into any Loan Document, having received payments thereunder or having been a party to, having performed its obligations under, having received or perfected a security interest under, having entered into any other transaction pursuant to and/or having enforced, any Loan Documents, (ii) any U.S. federal withholding tax that is required to be withheld pursuant to the applicable Law in effect at the time such Lender becomes a party hereto (or changes its applicable Lending Office), except to the extent that such Lender’s assignor (if any), immediately prior to the assignment to such Lender, or such Lender, immediately prior to such Lender’s change in Lending Office, was entitled to additional amounts in respect of such withholding tax pursuant to this Section 3.01(a), (iii) any taxes imposed as a result of such Agent’s or such Lender’s failure to comply with the provisions ofSection 3.01(b) or Section 3.01(c), (iv) any withholding taxes imposed pursuant to FATCA and (v) additions to tax, penalties and interest on the foregoing amounts in clauses (i) through (iv) of this Section 3.01 (all such non-excluded taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges and liabilities being hereinafter

referred to as “**Taxes**”). Notwithstanding anything contained herein to the contrary, Taxes includes any tax required to be withheld or deducted from any interest or other payment under Division 11A of the Australian Tax Act on payments by any Borrower or any Guarantor to or for the account of any Agent or any Lender under any Loan Document. If a Borrower, a Guarantor or any other applicable withholding agent is required to deduct or withhold any taxes from or in respect of any payment by the applicable Borrower or Guarantor under any Loan Document to any Agent or any Lender, (i) the applicable withholding agent shall make such deductions or withholdings, (ii) the applicable withholding agent shall pay the full amount deducted or withheld to the relevant taxing authority, (iii) to the extent such taxes are Taxes or Other Taxes (as defined below) an additional amount will be payable by the applicable Loan Party as necessary so that after all required deductions and withholdings have been made (including deductions and withholding to additional sums payable under this Section 3.01(a)), each of such Agent or such Lender receives an amount equal to the sum it would have received had no such deductions or withholdings been made, and (iv) within thirty (30) days after the date of any such payment by the any Borrower or any Guarantor (or, if receipts or evidence are not available within thirty (30) days, as soon as practicable thereafter), the applicable Borrower or Guarantor shall furnish to such Agent or Lender (as the case may be) the original or a facsimile copy of a receipt evidencing payment thereof to the extent such a receipt has been made available to the applicable Borrower or Guarantor (or other evidence of payment reasonably satisfactory to the Administrative Agent).

(b) Any Agent or Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Lead Borrower and the Administrative Agent, at the time or times reasonably requested by the Lead Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Lead Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Agent or Lender, if reasonably requested by Lead Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Laws or reasonably requested by the Lead Borrower or the Administrative Agent as will enable the Lead Borrower or the Administrative Agent to determine whether or not such Agent or Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(c)(i), Section 3.01(c)(iii) and Section 3.01(c)(iv)) shall not be required if in any Agent’s or Lender’s reasonable judgment such completion, execution or submission would subject any Agent or such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Agent or Lender or any of its Affiliates (it being understood that, in the case of U.S. federal taxes, providing any information currently required by IRS Forms W-8BEN-E, W-8 ECI or W-8IMY shall not be considered prejudicial to the position of a recipient).

(c) Without limiting the generality of the foregoing:

(i) To the extent it is legally eligible to do so, each Lender that is neither a U.S. Person (each a **Foreign Lender**) nor an Agent agrees to complete and deliver to the Lead Borrower and the Administrative Agent on or prior to the date on which the Foreign Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Lead Borrower or the Administrative Agent), two (2) accurate, complete and signed copies of whichever of the following is applicable: (i) IRS Form W-8BEN (or IRS Form W-8BEN-E) or successor form certifying that it is entitled to benefits under an income tax treaty to which the United States is a party; (ii) IRS Form W-8ECI or successor form certifying that the income receivable pursuant to any Loan Document is effectively connected with the conduct of a trade or business in the United States and, in the case of an Agent with respect to payments received on account of any Lender, a U.S. branch withholding certificate on IRS Form W-8IMY or any successor thereto evidencing the Agent’s agreement with the Borrowers to be treated as a U.S. Person for U.S. federal withholding purposes pursuant to Treasury Regulation Section 1.1441-1(b)(2)(iv)(A); (iii) if the Foreign Lender is not (A) a bank described in Section 881(c)(3)(A) of the Code, (B) a 10-percent shareholder described in Section 871(h)(3)(B) of the Code, or (C) a controlled foreign corporation related to the Borrowers within the meaning of Section 864(d)(4) of the Code, a certificate to that effect in substantially the form attached hereto as Exhibit H-1 (a “**Non-Bank Certificate**”) and an IRS Form W-8BEN (or IRS Form W-8BEN-E) or successor form, certifying that the Foreign Lender is not a United States person; (iv) to the extent a Foreign Lender is not the beneficial owner for U.S. federal income tax purposes, IRS Form W-8IMY (or any successor forms) of the Foreign Lender, accompanied by, as and to the extent applicable, an IRS Form W-8BEN (or IRS Form W-8BEN-E), IRS Form W-8ECI, Non-Bank Certificate in substantially the form attached hereto as Exhibit H-

2, Exhibit H-3, or Exhibit H-4 (as applicable) (provided, that if the Foreign Lender is a partnership, the Foreign Lender may provide a Non-Bank Certificate on behalf of its beneficial owners), IRS Form W-9, IRS Form W-8IMY (or other successor forms) and any other required supporting information from each beneficial owner (it being understood that a Foreign Lender need not provide certificates or supporting documentation from beneficial owners if (x) the Foreign Lender is a “qualified intermediary” or “withholding foreign partnership” for U.S. federal income tax purposes and (y) such Foreign Lender is as a result able to establish, and does establish, that payments to such Foreign Lender are, to the extent applicable, entitled to an exemption from or, if an exemption is not available, a reduction in the rate of, U.S. federal withholding taxes without providing such certificates or supporting documentation); or (v) any other form prescribed by applicable requirements of U.S. federal income tax law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable requirements of law to permit the Borrowers and the Administrative Agent to determine the withholding or deduction required to be made.

(ii) In addition, each such Foreign Lender shall, to the extent it is legally eligible to do so deliver to the Lead Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Lead Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrowers or the Administrative Agent to determine the withholding or deduction required to be made.

(iii) If a payment made to a Lender or Agent under any Loan Document would be subject to U.S. federal withholding tax imposed by FATCA if such Lender or Agent 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 or Agent shall deliver to the Lead Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Lead Borrower or the Administrative Agent such documentation prescribed by applicable Laws (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Lead Borrower or the Administrative Agent as may be necessary for the Lead Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine whether such Lender or Agent has complied with such Lender’s or Agent’s obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (iii), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(iv) On or before the date any Agent (or any successor thereto) becomes a party to this Agreement, such Agent shall provide to the Lead Borrower two duly-signed, properly completed copies of the documentation prescribed in clause (i) or (ii) below, as applicable (together with all required attachments thereto): (i) if the Agent is a U.S. Person, executed copies of IRS Form W-9 certifying that such Agent is not subject to U.S. federal backup withholding tax, or (ii) if the Agent is not a U.S. Person, (A) with respect to any payments to be received on its own behalf, executed copies of IRS Form W-8ECI or W-8BEN-E, as applicable, and (B) with respect to payments received on account of any Lender, executed copies of a U.S. branch withholding certificate on IRS Form W-8IMY (or any successor form) evidencing its agreement to be treated as a U.S. Person for U.S. federal withholding purposes as contemplated by Section 1.1441(b)(2)(iv) of the United States Treasury Regulations. Each Agent agrees that if any form or certification it previously delivered pursuant to this Section 3.01(c)(iv) expires or becomes obsolete or inaccurate in any material respect, it shall update such form or certification or promptly notify the Lead Borrower in writing of its legal inability to do.

(v) Each Agent or Lender that is a U.S. Person (each a “**U.S. Lender**”) agrees, to the extent it is legally eligible to do so, to complete and deliver to the Lead Borrower and the Administrative Agent two (2) copies of accurate, complete and signed IRS Form W-9 or successor form certifying that such U.S. Lender is not subject to United States federal backup withholding tax on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement) from time to time thereafter if reasonably requested by the Lead Borrower or the Administrative Agent; *provided, however,* that if such Agent or Lender is a disregarded entity for U.S. federal income tax purposes, it shall provide the appropriate withholding form of its owner (together with appropriate supporting documentation).

(vi) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 3.01(c) expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Lead Borrower and the Administrative Agent in writing of its legal inability to do so.

(d) [Reserved].

(e) Without duplication of any obligation set forth in Section 3.01(a), the Borrowers agree to pay any and all present or future stamp, court or documentary taxes and any other excise (in the nature of a documentary or similar tax), property, intangible (in the nature of a documentary or similar tax), filing or mortgage recording taxes or charges or similar levies imposed by any Governmental Authority which arise from any payment made under any Loan Document or the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document (including additions to tax, penalties and interest related thereto) excluding, in each case, such amounts imposed in connection with an Assignment and Assumption, grant of a participation, transfer or assignment to or designation of a new applicable Lending Office or other office for receiving payments under any Loan Document (other than to the extent that any such Assignment and Assumption, grant of a participation, transfer or assignment to or designation of a new applicable Lending Office or other office for receiving payments under any Loan Document was made at the request of any Loan Party) (all such non-excluded taxes described in this Section 3.01(e) being hereinafter referred to as "**Other Taxes**").

(f) Without duplication of any obligation set forth in Section 3.01(a), if any Taxes with respect to any payment of principal or interest received by any Agent or Lender in respect of any Loan Document, or any Other Taxes, are directly asserted against, or required to be deducted or withheld from a payment to, any Agent or Lender, the Borrowers will jointly and severally promptly indemnify and hold harmless such Agent or Lender for the full amount of such Taxes and Other Taxes (and any Taxes and Other Taxes imposed on amounts payable under this Section 3.01), and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted. Payments under this Section 3.01(f) shall be made within ten (10) days after the date the Lead Borrower receives written demand for payment from such Agent or Lender. A certificate as to the amount of such payment or liability delivered to the Lead Borrower by an Agent or a Lender (with a copy to the Administrative Agent) shall be conclusive absent manifest error.

(g) [Reserved].

(h) If the Lead Borrower determines in good faith that a reasonable basis exists for contesting any Taxes for which indemnification has been demanded or additional amounts have been payable hereunder, the relevant Lender or the relevant Agent, as applicable, shall cooperate with the Lead Borrower in a reasonable challenge of such Taxes if so requested by the Lead Borrower; *provided* that (i) such Lender or Agent determines in its reasonable discretion that it would not be prejudiced by cooperating in such challenge, (ii) the Borrowers pay all related expenses of such Agent or Lender, (iii) the Borrowers indemnify such Lender or Agent for any liabilities or other costs incurred by such party in connection with such challenge and (iv) the Borrowers indemnify the relevant Lender or Agent, as applicable, for any Taxes or Other Taxes before any such contest.

(i) If any Agent or any Lender determines, in its sole discretion exercised in good faith, that it has received a refund in respect of any Taxes or Other Taxes as to which it has been indemnified by any Borrower or any Guarantor, as the case may be, or with respect to which any Borrower or any Guarantor, as the case may be, has paid additional amounts pursuant to this Section 3.01, it shall promptly remit such refund to the Borrowers (but only to the extent of indemnity payments made, or additional amounts paid, by any Borrower or any Guarantor, as the case may be, under this Section 3.01 with respect to the Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses (including any taxes) incurred by such Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided* that the Borrowers, upon the request of such Agent or such Lender, agree to repay the amount paid over to the Borrowers (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to such Agent or such Lender in the event such Agent or such Lender is required to repay such refund to such Governmental Authority.

Notwithstanding anything to the contrary in this clause (i), in no event will any Agent or Lender be required to pay any amount to the Borrowers pursuant to this clause (i) the payment of which would place the Agent or Lender in a less favorable net after-tax position than the Agent or Lender would have been in if the Tax or Other 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 or Other Tax had never been paid.

(j) [Reserved].

(k) Notwithstanding any other provision of this Agreement, the Borrowers and the Administrative Agent may deduct and withhold any taxes required by any Laws to be deducted and withheld from any payment under any of the Loan Documents, subject to the provisions of this Section 3.01.

(l) With respect to any Lender or Agent's claim for compensation under Section 3.01(f), no Borrower or Guarantor shall be required to compensate such Lender or Agent for any amount incurred more than 180 days prior to the date that such Lender or Agent notifies the Lead Borrower of the event that gives rise to such claim, provided that, if such claim results from a retroactive Change in Law, then such 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(m) The agreements in this Section 3.01 shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

(n) For the avoidance of doubt, the terms "Lender" and "Foreign Lender" shall, for purposes of this Section 3.01, include any L/C Issuer and the Swing Line Lender.

(o) [Reserved].

(p) Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any taxes (including interest and penalties) attributable to such Lender's failure to comply with the provisions of Section 10.07(e) relating to the maintenance of a Participant Register and (iii) any taxes (including interest and penalties) excluded from the definition of Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this clause (p).

Section 3.02 Illegality. If any Lender reasonably determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to the Eurocurrency Rate or BBSY Bid, or to determine or charge interest rates based upon the Adjusted Eurocurrency Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars or Australian dollars in the applicable interbank market, then, on notice thereof by such Lender to the Lead Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue Eurocurrency Rate Loans or BBSY Rate Loans or to convert Base Rate Loans to Eurocurrency Rate Loans, as applicable, shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Adjusted Eurocurrency Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender, shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurocurrency Rate component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Lead Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrowers shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay all of such Lender's Eurocurrency Rate Loans or BBSY Rate Loans, as applicable, or convert all of such Lender's Eurocurrency Rate Loans to Base Rate Loans (the interest rate on which

Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Adjusted Eurocurrency Rate component of the Base Rate, if applicable), in each case, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans or BBSY Rate Loans, as applicable, to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans or BBSY Rate Loans, as applicable, and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurocurrency Rate, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Adjusted Eurocurrency Rate component thereof (if applicable) until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurocurrency Rate. Upon any such prepayment or conversion, the Borrowers shall also pay accrued interest on the amount so prepaid or converted and all amounts due, if any, in connection with such prepayment or conversion under Section 3.05. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

Section 3.03 Inability to Determine Rates; Benchmark Replacement.

(a) If the Administrative Agent or the Required Lenders reasonably determine that for any reason, adequate and reasonable means do not exist for determining the Eurocurrency Rate or BBSY Bid for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan or BBSY Rate Loan, respectively, or that the Eurocurrency Rate or BBSY Bid for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan or BBSY Rate Loan, respectively does not adequately and fairly reflect the cost to such Lenders of funding such Loan, or that deposits are not being offered to banks in the relevant interbank market for the applicable amount and the Interest Period of such Eurocurrency Rate Loan or BBSY Rate Loan, respectively, the Administrative Agent will promptly so notify the Lead Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans or BBSY Rate Loans, as applicable, shall be suspended and (y) with respect to Loans denominated in Dollars, in the event of a determination described in the preceding sentence with respect to the Adjusted Eurocurrency Rate component of the Base Rate, the utilization of the Adjusted Eurocurrency Rate component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Lead Borrower may revoke any pending request for a Borrowing or continuation of Eurocurrency Rate Loans or BBSY Rate Loans or conversion to Eurocurrency Rate Loans, or, (i) with respect to a Loan denominated in Dollars, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans (determined without reference to the Adjusted Eurocurrency Rate component thereof, if applicable) in the amount specified therein and (ii) with respect to a Loan denominated in Australian Dollars, Section 3.10 will apply to such Loan for the applicable Interest Period. The parties to this Agreement shall use commercially reasonable efforts (exercised in good faith) to effect the foregoing in a manner that is intended to comply with the terms of Proposed United States Treasury Regulation Section 1.1001-6 (or any successor or similar Treasury Regulations) such that any actions taken pursuant to this Section 3.03 do not constitute a “significant modification” for purposes of United States Treasury Regulation Section 1.1001-3.

(b) Notwithstanding anything to the contrary herein or in any other Loan Document:

(i) On March 5, 2021 ICE Benchmark Administration (“IBA”), the entity that calculates and publishes LIBOR, and the U.K. Financial Conduct Authority (“FCA”), the regulatory supervisor of IBA, made public statements regarding the future cessation of LIBOR. According to the FCA, IBA will permanently cease publication of (A) the 1-week and 2-month USD LIBOR settings following the publication of such settings on December 31, 2021, and (B) the overnight/Spot Next, 1-month, 3-month, 6-month and 12-month USD LIBOR settings, immediately following the publication of such settings on June 30, 2023. As a consequence, (x) on January 1, 2022, any option to select 1 week or 2-month USD LIBOR will no longer be available and (y) on the earliest of (A) July 1, 2023, (B) the date that all Available Tenors of USD LIBOR have either permanently or indefinitely ceased to be provided by IBA or have been announced by the FCA pursuant to public statement or publication of information to be no longer representative and (C) the Early Opt-in Effective Date, with respect to Loans denominated in Dollars, if the then-current Benchmark is USD LIBOR, the applicable Benchmark Replacement will replace such Benchmark, in the case of both clauses (x) and (y), for all purposes hereunder and under any Loan Document in respect of any setting of such Benchmark on such day and all subsequent settings without any amendment to, or further action by or consent of any other party to, this Agreement or any other Loan Document. If the Benchmark Replacement for Loans denominated in Dollars is Daily Simple SOFR, all interest payments in respect of such Loans will be payable on a monthly basis.

(ii) If any Benchmark Transition Event occurs after the date hereof (other than as described in Section 3.03(b)(i)) with respect to any Benchmark, the applicable Benchmark will be replaced with the applicable Benchmark Replacement for all purposes hereunder and under any Loan Document in respect of any Benchmark setting on the later of (A) 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders and the Lead Borrower (together, if applicable, with an amendment to this Agreement implementing such Benchmark Replacement and any applicable Benchmark Replacement Conforming Changes) or (B) such other date as may be determined by the Administrative Agent, in each case, without any further action or consent of any other party to this Agreement or any other Loan Document, so long as the Administrative Agent has not received, by such time (or, in the case of clause (B) above, such time as may be specified by the Administrative Agent as a deadline to receive objections, but in any case, no less than five (5) Business Days after the date such notice is provided to the Lenders and the Lead Borrower), written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders; provided, however, that in the event that the then-current Benchmark with respect to Dollar-denominated Loans is not a SOFR-based rate, then the Benchmark Replacement shall be determined in accordance with clause (1)(a) of the definition of "Benchmark Replacement" unless the Administrative Agent has determined that neither of such alternative rates is available. At any time that the administrator of any then-current Benchmark has permanently or indefinitely ceased to provide such Benchmark or such Benchmark has been announced by the regulatory supervisor for the administrator of such Benchmark pursuant to public statement or publication of information to be no longer representative of the underlying market and economic reality that such Benchmark is intended to measure and that representativeness will not be restored, the Lead Borrower may revoke any request for a borrowing of, conversion to or continuation of Loans to be made, converted or continued that would bear interest by reference to such Benchmark until the Lead Borrower's receipt of notice from the Administrative Agent that a Benchmark Replacement has replaced such Benchmark, and, failing that, the Lead Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans, if applicable. During the period referenced in the foregoing sentence, the component of Base Rate based upon the applicable Benchmark will not be used in any determination of Base Rate.

(iii) In connection with the implementation and administration of a Benchmark Replacement (whether in connection with the replacement of LIBOR or any future Benchmark), the Administrative Agent will have the right, with the consent of the Lead Borrower, 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 or any other Loan Document.

(iv) The Administrative Agent will promptly notify the Lead Borrower and the Lenders of (A) the implementation of any Benchmark Replacement and (B) the effectiveness of any Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by the Administrative Agent and the Lead Borrower pursuant to this Section 3.03(b) including, without limitation, any determination with respect to a tenor, rate or adjustment, or implementation of any Benchmark Replacement Conforming Changes, the timing of implementation of any Benchmark Replacement 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 on all parties hereto absent manifest error and may be made in its sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 3.03(b), and shall not be a basis of any claim of liability of any kind or nature by any party hereto, all such claims being hereby waived individually by each party hereto.

(v) At any time (including in connection with the implementation of a Benchmark Replacement), (A) if a then-current Benchmark is a term rate (including Term SOFR or USD LIBOR, or any alternate rate selected in an Early Opt-in Election), then the Administrative Agent may remove any tenor of such Benchmark that is unavailable or non-representative for such Benchmark (including any Benchmark Replacement) settings and (B) if such tenor becomes available or representative, the Administrative Agent may reinstate any previously removed tenor for such Benchmark (including any Benchmark Replacement) settings.

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

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender;

(ii) [reserved]; or

(iii) (A) impose on any Lender any increase in the cost to such Lender of agreeing to make or making, funding or maintaining Eurocurrency Rate Loans or BBSY Rate Loans or (as the case may be) issuing or participating in Letters of Credit (other than, in each case, with respect to taxes governed by Section 3.01), or (B) cause a reduction in the amount received or receivable by any Lender in connection with any of the foregoing, that is not otherwise accounted for in the definition of Adjusted Eurocurrency Rate (excluding for purposes of this Section 3.04(a) any such increased costs or reduction in amount resulting from (x) reserve requirements contemplated by Section 3.04(d) and (y) amounts otherwise excluded in the parenthetical in clause (ii) immediately above);

or the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Loan the interest on which is determined by reference to the Eurocurrency Rate or BBSY Bid or issuing or participating in any Letters of Credit (or of maintaining its obligation to make any such Loan or issue or participate in any such Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, from time to time within fifteen (15) days after demand by such Lender setting forth in reasonable detail such increased costs or such reduction in amount (with a copy of such demand to the Administrative Agent), the Borrowers will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered. At any time that any Eurocurrency Rate Loan or BBSY Rate Loan is affected by the circumstances described in this Section 3.04(a), the Borrowers may, subject to Section 3.05, either (i) if the affected Eurocurrency Rate Loan or BBSY Rate Loan is then being made pursuant to a Borrowing, cancel such Borrowing by giving the Administrative Agent written notice thereof on the same date that the Borrowers receive any such demand from such Lender or (ii) if the affected Eurocurrency Rate Loan is then outstanding, upon at least three Business Days' notice to the Administrative Agent, require the affected Lender to convert such Eurocurrency Rate Loan into a Base Rate Loan (determined without reference to the Adjusted Eurocurrency Rate component thereof), if applicable.

(b) Capital Requirements. If any Lender reasonably determines that the introduction of any Change in Law regarding capital adequacy or liquidity requirements, or any change therein or the interpretation thereof, in each case after the date hereof, or compliance by such Lender (or its Lending Office) therewith, has the effect of reducing the rate of return on the capital of such Lender, or any corporation or holding company controlling such Lender as a consequence of such Lender's obligations hereunder (taking into consideration its policies and the policies of such Lender's holding company with respect to capital adequacy and liquidity), then from time to time upon demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent), the Borrowers will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in clause (a) or (b) of this Section 3.04 and delivered to the Lead Borrower shall be conclusive absent manifest error. The Borrowers shall pay such Lender, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Reserves on Eurocurrency Rate Borrowings. The Borrowers shall pay to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency Rate funds or deposits, additional interest on the unpaid principal amount of each Eurocurrency Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive in the absence of manifest error), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Eurocurrency Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error) which in each case shall be due and payable on each date on which interest is payable on such Loan; *provided* the Borrowers shall have received at least fifteen (15) days' prior notice (with a copy to the Administrative Agent) of such additional interest or cost from such Lender; *provided, further,* that any such costs described in clauses (d)(i) and (d)(ii) resulting from reserve requirements contemplated by the definition of Adjusted Eurocurrency Rate shall be excluded for all purposes under this Section 3.04(d). If a Lender fails to give notice fifteen (15) days prior to the relevant Interest Payment Date, such additional interest or cost shall be due and payable fifteen (15) days from receipt of such notice.

(e) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's right to demand such compensation; *provided* that the Borrowers shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section 3.04 for any increased costs incurred or reductions suffered more than one hundred and eighty (180) days prior to the date that such Lender notifies the Lead Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof). No Lender shall demand compensation pursuant to this Section 3.04 unless such Lender is generally making corresponding demands on similar types of borrowers for similar amounts pursuant to similar provisions in other loan documents to which such Lender is a party.

Section 3.05 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail the basis for requesting such amount, the Borrowers shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion (in the case of Eurocurrency Rate Loans only), payment or prepayment of any Eurocurrency Rate Loan or BBSY Rate Loan on a day prior to the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

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

(c) any assignment of a Eurocurrency Rate Loan or a BBSY Rate Loan on a day prior to the last day of the Interest Period therefor as a result of a request by the Lead Borrower pursuant to Section 3.07.

including any loss or expense (excluding loss of anticipated profits or margin) actually incurred by reason of the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained.

Section 3.06 Matters Applicable to All Requests for Compensation.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender or L/C Issuer pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender or L/C Issuer, as applicable shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or L/C Issuer, as applicable, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or Section 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender or L/C Issuer, as applicable to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or L/C Issuer, as applicable, in any material economic, legal or regulatory respect. The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender any L/C Issuer in connection with any such designation or assignment.

(b) Suspension of Lender Obligations. If any Lender requests compensation by the Borrowers under Section 3.04, the Lead Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue Eurocurrency Rate Loans from one Interest Period to another Interest Period, or to convert Base Rate Loans into Eurocurrency Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(c) shall be applicable); *provided* that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) If the obligation of any Lender to make or continue from one Interest Period to another Interest Period any Eurocurrency Rate Loan, or to convert Base Rate Loans into Eurocurrency Rate Loans, shall be suspended pursuant to Section 3.06(b) hereof, such Lender's Eurocurrency Rate Loans shall be automatically converted into Base Rate Loans (determined without reference to the Adjusted Eurocurrency Rate component thereof, if applicable) on the last day(s) of the then current Interest Period(s) for such Eurocurrency Rate Loans (or, in the case of an immediate conversion required by Section 3.02, on such earlier date as required by Law) and, unless and until such Lender gives notice as provided below that the circumstances specified in Section 3.01, Section 3.02, Section 3.03 or Section 3.04 hereof that gave rise to such conversion no longer exist:

(i) to the extent that such Lender's Eurocurrency Rate Loans have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's Eurocurrency Rate Loans shall be applied instead to its Base Rate Loans (which shall be determined without reference to the Adjusted Eurocurrency Rate component thereof, if applicable); and

(ii) all Loans that would otherwise be made or continued from one Interest Period to another Interest Period by such Lender as Eurocurrency Rate Loans shall be made or continued instead as Base Rate Loans, and all Base Rate Loans of such Lender that would otherwise be converted into Eurocurrency Rate Loans shall remain as Base Rate Loans (which shall be determined without reference to the Adjusted Eurocurrency Rate component thereof).

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

(e) Notwithstanding anything contained herein to the contrary, a Lender shall not be entitled to any compensation pursuant to Section 3.04 to the extent such Lender is not generally making corresponding demands from borrowers (similarly situated to the Borrowers hereunder) under comparable syndicated credit facilities.

Section 3.07 Replacement of Lenders under Certain Circumstances. If (i) any Lender becomes a Defaulting Lender, (ii) any Lender requests compensation under Section 3.04 or ceases to make Eurocurrency Rate Loans or BBSY Rate Loans as a result of any condition described in Section 3.02 or Section 3.04, (iii) the Borrowers are required to pay any Taxes, Other Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, (iv) any Lender is a Non-Consenting Lender or (v) any other circumstance exists hereunder that gives the Borrowers the right to replace a Lender as a party hereto, then the Lead Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.07), all of its interests, rights and obligations under this Agreement and the related Loan Documents to one or more Eligible Assignees (none of whom shall be a Defaulting Lender) that shall assume such obligations (any of which assignees may be another Lender, if a Lender accepts such assignment); provided that:

- (a) the Borrowers shall have paid to the Administrative Agent the assignment fee specified in Section 10.07(b)(iv) (unless waived by the Administrative Agent in its sole discretion);
- (b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts payable under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts);
- (c) such Lender being replaced pursuant to this Section 3.07 shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans and participations in L/C Obligations and Swing Line Loans, and (ii) deliver any Notes evidencing such Loans to the Lead Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); *provided* that the failure of any such Lender to deliver such Assignment and Assumption or such Notes (or such indemnity in lieu thereof) shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Notes shall be deemed to be canceled upon such assignment;
- (d) pursuant to any Assignment and Assumption executed pursuant to Section 3.07(c), (A) the assignee Lender shall acquire all or a portion, as the case may be, of the assigning Lender's Commitment and outstanding Loans and participations in L/C Obligations and Swing Line Loans, (B) all obligations of the Borrowers owing to the assigning Lender relating to the Loans and participations so assigned shall be paid in full by the assignee Lender to such assigning Lender concurrently with such assignment and assumption and (C) upon such payment and, if so requested by the assignee Lender, delivery to the assignee Lender of the appropriate Note or Notes executed by the Borrowers, the assignee Lender shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification and confidentiality provisions under this Agreement, which shall survive as to such assigning Lender;
- (e) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and
- (f) such assignment does not conflict with applicable Laws.

In connection with any such replacement, if any such Lender being replaced pursuant to this Section 3.07 does not execute and deliver to the Administrative Agent a duly executed Assignment and Assumption reflecting such replacement within five (5) Business Days of the date on which the assignee Lender executes and delivers such Assignment and Assumption to such Lender being replaced pursuant to this Section 3.07, then such Lender being replaced pursuant to this Section 3.07 shall be deemed to have executed and delivered such Assignment and Assumption without any action on the part of such Lender.

Notwithstanding anything to the contrary contained above, any Lender that acts as an L/C Issuer may not be replaced hereunder at any time that it has any Letter of Credit issued and outstanding hereunder unless any such Letters of Credit have been Cash Collateralized or other arrangements reasonably satisfactory to such L/C Issuer shall have been made with respect to each such outstanding Letter of Credit and the Lender that acts as the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 9.09.

In the event that (i) the Lead Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment or modification thereto, (ii) the consent, waiver or amendment or modification in question requires the agreement of each Lender, all affected Lenders or all the Lenders in accordance with the terms of Section 10.01 with respect to a certain Class or Classes of the Loans and (iii) the Required Lenders, Required Term Lenders, Required Revolving Credit Lenders or Required Facility Lenders, as applicable, have agreed (to the extent required by Section 10.01) to such consent, waiver or amendment or modification, then any Lender who does not agree to such consent, waiver or amendment or modification shall be deemed a “Non-Consenting Lender.”

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply.

Section 3.08 Survival. All of the Borrowers’ obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations and resignation of the Administrative Agent or the Collateral Agent.

Section 3.09 Public Offer.

(a) Each Borrower represents and acknowledges that invitations to become a Lender under this Agreement have been made on its behalf prior to the date of this Agreement to at least ten parties, each of whom, as at the date the relevant invitation was made, such Borrower’s relevant officers involved in the transaction on a day-to-day basis believed carried on the business of providing finance, or investing or dealing in securities, in the course of operating in financial markets.

(b) Each Borrower confirms that none of the parties underSection 3.09(a) were known or suspected by it to be an Offshore Associate of it or an Associate of any other such offeree.

(c) Each Lender which became a Lender under this Agreement as a result of accepting an invitation underSection 3.09(a) represents and warrants to the Borrowers that it was at the time it received the invitation, carrying on the business of providing finance, or investing or dealing in securities, in the course of operating in financial markets, and its relevant officers involved in its participation under this Agreement did not know or suspect that it was an Offshore Associate of any Borrower at the time it received the invitation or at the time of advancing its participation in the Loans.

(d) Each Lender will provide to the Lead Borrower when reasonably requested by the Lead Borrower any factual information in its possession or which it is reasonably able to provide to assist the Borrowers to demonstrate that Section 128F of the Australian Tax Act has been satisfied where to do so will not in the reasonable opinion of such Lender breach any Law or duty of confidence. The Lead Borrower will reimburse each Lender for any reasonable costs incurred in complying with this Section 3.09(d).

(e) If, for any reason, the requirements of Section 128F of the Australian Tax Act have not been satisfied in relation to interest payable on Loans (except to an Offshore Associate of a Borrower), then upon request by the Administrative Agent, any Lead Arranger or the Lead Borrower, each Secured Party shall cooperate and take steps reasonably requested with a view to satisfying those requirements:

- (i) where a Secured Party breached Section 3.09(c), at the cost of that Secured Party; or
- (ii) in all other cases, at the cost of the Borrowers

Section 3.10 Cost of Funds.

(a) If this Section 3.10 applies in a provision set out in this Agreement, the rate of interest on each relevant Lender's share of the relevant Loan for the relevant Interest Period shall be the percentage rate per annum which is the sum of:

(i) the Applicable Rate; and

(ii) the rate notified to the Administrative Agent by the Required Lenders, to be that which expresses as a percentage rate per annum, the cost to the relevant Lender(s) of funding its participation in that Loan from whatever source it may reasonably select. That rate is to be notified as soon as practicable and in any event before interest is due to be paid in respect of that Interest Period.

(b) If this Section 3.10 applies in a provision set out in this Agreement and the Administrative Agent or the Lead Borrower so requires, the Administrative Agent and the Lead Borrower shall enter into negotiations (for a period of not more than 30 days) with a view to agreeing a substitute basis for determining the rate of interest.

(c) Any alternative basis agreed pursuant to subparagraph (b) above shall, with the prior consent of all the Lenders and the Lead Borrower, be binding on all parties to this Agreement.

(d) If this Section 3.10 applies in a provision set out in this Agreement, but any Lender does not supply a quotation by the time specified in paragraph (a)(ii) above, the rate of interest for that Lender shall be calculated on the basis of the quotations of the remaining Lenders.

ARTICLE IV CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

Section 4.01 Conditions to Initial Credit Extension The obligation of each Lender to make its initial Credit Extension hereunder on the Closing Date is subject to satisfaction or waiver, in accordance with Section 10.01, of each of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals, facsimiles or copies in .pdf form by electronic mail (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party (if applicable):

(i) a Loan Notice or Letter of Credit Application, as applicable, relating to the initial Credit Extension and which shall be delivered in accordance with Section 2.02 or Section 2.03, as applicable;

(ii) executed counterparts of this Agreement duly executed by each of Holdings and each Borrower;

(iii) each Guaranty and the other Collateral Documents set forth on Schedule 1.01B required to be executed on the Closing Date, as indicated on such schedule, duly executed by each Loan Party party thereto as of the Closing Date, together with:

(A) certificates, if any, representing the Pledged Collateral that is certificated Equity Interests of each Borrower and each of the other Subsidiaries, to the extent that same are required to be delivered pursuant to the Collateral and Guarantee Requirement, each accompanied by undated stock powers or share transfer forms executed in blank; and

(B) evidence that all Uniform Commercial Code financing statements in the jurisdiction of organization of each Loan Party and PPSA financing statements that the Administrative Agent and the Collateral Agent may deem reasonably necessary to satisfy the Collateral and Guarantee Requirement shall have been provided for, and arrangements for the filing thereof in a manner reasonably satisfactory to the Administrative Agent shall have been made;

(iv) (x) other than in the case of an Australian Loan Party, such certificates of good standing or status (to the extent that such concepts exist) from the applicable secretary of state (or equivalent authority) of the jurisdiction of organization, registration or incorporation of each Loan Party (in each case, to the extent applicable), certificates of customary resolutions (or extracts from those resolutions) or other customary action, customary certificates of Responsible Officers of each Loan Party and incumbency certificates of each Loan Party evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party on the Closing Date; (y) in the case of each Australian Loan Party, a verification certificate dated as of the Closing Date and signed by one (1) director of such Australian Loan Party (A) certifying the following items: (1) a copy of the certificate of registration, certificate of change of name (if any) and constitution (or other equivalent constituent and governing documents) of such Australian Loan Party, (2) a copy of a true, complete and up-to-date extract of board resolutions (or equivalent) approving the entry by such Australian Loan Party into the Loan Documents to which it is a party and the performance of its obligations thereunder, (3) any power of attorney under which such Australian Loan Party is signing the Loan Documents, (4) a true and complete specimen of signatures for each of the directors or authorized signatories having executed for and on behalf of such Australian Loan Party the Loan Documents and (5) a certified copy of the share register of the Australian Loan Party, and (B) confirming that: (1) such Australian Loan Party is solvent and (2) such Australian Loan Party is not prevented by Chapter 2E or Part 2J.3 of the Australian Corporations Act from entering into and performing its obligations under the Loan Documents; and, (z) in the case of the Lead Borrower, a certificate of a Responsible Officer that the condition specified in clause (e) below has been satisfied;

(v) (x) a customary opinion from Kirkland & Ellis LLP, counsel to the Loan Parties, (y) a customary opinion from Duane Morris LLP, New Jersey counsel to the Loan Parties and (z) in relation to the Australian Loan Parties and Australian law matters, a customary opinion from King & Wood Mallesons, Australian counsel to the Administrative Agent; and

(vi) a certificate, substantially in the form of Exhibit S, attesting to the Solvency of Holdings and its Restricted Subsidiaries, on a consolidated basis, on the Closing Date after giving effect to the Transaction, from the chief financial officer (or other officer or authorized signatory with equivalent duties) of Holdings.

provided, however, that, the requirements set forth in clause (iii) above, including the delivery of documents and instruments necessary to satisfy the Collateral and Guarantee Requirement, including, without limitation, any Mortgages, Mortgage Policies and related real estate deliverables (except for in the case of clause (iii), the execution and delivery of the Security Agreement and to the extent that a Lien on the Collateral may be perfected (x) by the filing of a financing statement under the Uniform Commercial Code or PPSA, delivery of such financing statements or (y) in the case of certificated Equity Interests, by the delivery and possession of stock, share and other equity certificates and powers (or equivalent) of the Lead Borrowers, shall not constitute conditions precedent to any Credit Extension on the Closing Date after the Lead Borrower's use of commercially reasonable efforts to satisfy such requirement on or prior to the Closing Date, or to the extent satisfying such requirement on or prior to the Closing Date would result in undue burden or expense, and the Lead Borrower hereby agrees to deliver, or cause to be delivered, such documents and instruments, or take or cause to be taken such other actions as may be required to deliver such documents or instruments or to perfect such security interests, within ninety (90) days after the Closing Date (subject to extensions approved by the Administrative Agent in its reasonable discretion).

(b) All fees, premiums, expenses (including without limitation, legal fees and expenses, title premiums and recording taxes and fees) and other transaction costs incurred in connection with the Transaction (including to fund any OID and upfront fees) required to be paid under the Commitment Letter and the Fee Letter on the Closing Date to the Agents, the Lead Arrangers and the Lenders to the extent invoiced in reasonable detail at least three (3) Business Days before the Closing Date (except as otherwise reasonably agreed to by the Lead Borrower) shall have been paid in full to the extent then due.

(c) Prior to, or substantially concurrently with, the initial Credit Extensions, each of the Closing Date IPO and the Refinancing shall have been consummated.

(d) The Administrative Agent and each Lender shall have received at least three (3) Business Days prior to the Closing Date all documentation and other information about each Borrower and each Guarantor reasonably requested in writing by it at least ten (10) Business Days prior to the Closing Date (including any beneficial ownership certification) required in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the PATRIOT Act.

(e) The Specified Representations shall be true and correct in all material respects on and as of the Closing Date.

Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Agent and each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender.

Section 4.02 Conditions to All Credit Extensions after the Closing Date The obligation of each Lender to honor any Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type, a continuation of Eurocurrency Rate Loans or BBSY Rate Loans, as applicable, or (except as set forth in the applicable Incremental Amendment) a Borrowing pursuant to any Incremental Amendment) after the Closing Date is subject to the following conditions precedent:

(a) The representations and warranties of each Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects (without duplication of materiality qualifiers) on and as of the date of such Credit Extension; *provided* that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date.

(b) At the time of and immediately after giving effect to any Borrowing after the Closing Date, no Default or Event of Default shall have occurred and be continuing.

(c) The Administrative Agent and, if applicable, the relevant L/C Issuer shall have received a Request for Credit Extension in accordance with the requirements hereof.

(d) If the applicable Borrower is a Designated Borrower, then the conditions of Section 2.21 to the designation of such Borrower as a Designated Borrower shall have been met to the satisfaction of the Administrative Agent.

Each Request for Credit Extension (other than a Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurocurrency Rate Loans or BBSY Rate Loans, as applicable, or a Borrowing in connection with any Incremental Amendment) submitted by the Lead Borrower after the Closing Date shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b), as applicable, have been satisfied on and as of the date of the applicable Credit Extension.

ARTICLE V REPRESENTATIONS AND WARRANTIES

On the Closing Date and solely to the extent required pursuant to Section 4.02 hereof, each of the Borrowers and, in respect of Sections 5.01, 5.02, 5.03, 5.04, 5.13, 5.17, 5.18 and 5.19 only, Holdings represent and warrant (solely to the extent required to be true and correct for the applicable Credit Extension pursuant to Article IV) to the Administrative Agent, the Collateral Agent, the L/C Issuer and the Lenders that (provided that the only representations and warranties made or the accuracy of which shall be tested under this Article V on the Closing Date shall be the Specified Representations):

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

Section 5.02 Authorization; No Contravention. (a) The execution, delivery and performance by each Loan Party of each Loan Document to which it is a party has been duly authorized by all necessary corporate or other organizational action.

(b) The execution, delivery and performance by each Loan Party of each Loan Document to which such Loan Party is a party do not and will not (A) materially contravene the terms of any of its Organization Documents; (B) result in any breach or contravention of, or the creation of any material Lien upon any of the property or assets of such Loan Party or any of the Restricted Subsidiaries (other than as permitted by Section 7.01) under, (I) any Contractual Obligation to which such Loan Party is a party or affecting such Loan Party or the properties of such Loan Party or any of its Subsidiaries or (II) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject; or (C) violate any applicable Laws, except with respect to any breach, contravention or violation (but not creation of Liens) referred to in clauses (B) and (C), to the extent that such breach, contravention or violation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.03 Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by any Loan Party of this Agreement or any other Loan Document, except for (i) filings or other actions necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties, (ii) the approvals, consents, exemptions, authorizations, actions, notices and filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral and Guarantee Requirement), (iii) those approvals, consents, exemptions, authorizations or other actions, notices or filings described in the Collateral Documents, and (iv) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of each Loan Party, enforceable against each Loan Party that is party hereto and thereto in accordance with its respective terms, except as such enforceability may be limited by Debtor Relief Laws or other Laws affecting creditors' rights generally and by general principles of equity and principles of good faith and fair dealing.

Section 5.05 Financial Statements; No Material Adverse Effect

(a) As of the Closing Date, the Annual Financial Statements and the Quarterly Financial Statements fairly present in all material respects the financial condition, assets and liabilities of Excelerate, L.P. and its Subsidiaries as of the dates thereof and their results of operations for the period covered thereby, in accordance with GAAP or IFRS in all material respects, as applicable, consistently applied throughout the periods covered thereby, (i) except that such financial statements use an as-billed revenue recognition policy consistent with historical policies or as otherwise expressly noted therein and (ii) subject, in the case of the Quarterly Financial Statements, to changes resulting from end-of-period adjustments (which end-of-period adjustments will be consistent in subject and nature with the year-end adjustments made in connection with the Annual Financial Statements), and the absence of footnotes.

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

Section 5.06 Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Lead Borrower, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against any Borrower or any of the other Restricted Subsidiaries that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.07 Labor Matters. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, there are no strikes, lockouts or slowdowns against any Borrower or any other Restricted Subsidiary pending or, to the knowledge of the Lead Borrower, threatened.

Section 5.08 Ownership of Property; Liens. Each of the Borrowers and the other Restricted Subsidiaries has good record and indefeasible title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for Liens permitted by Section 7.01 and except where the failure to have such title or other property interests described above would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.09 Environmental Matters. (a) Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (i) the Borrowers and the other Restricted Subsidiaries are in compliance with all Environmental Laws in all jurisdictions in which each of the Borrowers and each of the other Restricted Subsidiaries, as the case may be, is currently doing business (including having obtained all Environmental Permits required for the operation of the business) and (ii) none of the Borrowers nor any of the other Restricted Subsidiaries is subject to any pending, or to the knowledge of the Lead Borrower, threatened Environmental Claim or other Environmental Liability.

(b) None of the Borrowers nor any of the other Restricted Subsidiaries has treated, stored, transported or disposed of Hazardous Materials at or from any of its current or former real estate or facilities in a manner that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.10 Taxes(a) . (a) Except as would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Borrowers and the other Restricted Subsidiaries have timely filed all Federal and state and other tax returns and reports required to be filed in any applicable jurisdiction, and have timely paid all Federal and state and other taxes, assessments, fees and other governmental charges (including satisfying its withholding tax obligations) levied or imposed on their properties, income or assets or otherwise due and payable in any applicable jurisdiction, except those which are being contested in good faith by appropriate actions and for which adequate reserves have been provided in accordance with GAAP or IFRS, as applicable.

(b) If any Borrower or any Restricted Subsidiary is a member of a Consolidated Group, it is a party to a valid Tax Sharing Agreement and a Tax Funding Agreement.

Section 5.11 ERISA Compliance. (a) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) none of the Borrowers nor any of their ERISA Affiliates has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 et seq. or Section 4243 of ERISA with respect to a Multiemployer Plan; and (iii) none of the Borrowers nor any of their ERISA Affiliates has engaged in a transaction that is subject to Section 4069 or Section 4212(c) of ERISA, except, with respect to each of the foregoing clauses of this Section 5.11(a), as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Except where noncompliance or the incurrence of an obligation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, each Foreign Plan (if any) has been maintained in substantial compliance with its terms and with the requirements of any and all applicable Laws, and none of the Borrowers nor any other Restricted Subsidiary has incurred any obligation in connection with the termination of or withdrawal from any Foreign Plan.

(c) Except where noncompliance or the incurrence of an obligation would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, each Employee Benefit Plan has been maintained in compliance with its terms and with the requirements of any and all applicable Laws, and none of the Borrowers nor any other Restricted Subsidiary has incurred any obligation in connection with the termination of or withdrawal from any Employee Benefit Plan.

Section 5.12 Subsidiaries. As of the Closing Date, (a) none of the Borrowers nor any other Loan Party has any Subsidiaries other than those specifically disclosed on Schedule 5.12, (b) all of the outstanding Equity Interests in the Borrowers and the other Restricted Subsidiaries have been validly issued and are fully paid and (if applicable) nonassessable, and (c) all outstanding Equity Interests owned by Holdings (in the Lead Borrower) and by the Borrowers or any other Loan Party in any of their respective Restricted Subsidiaries are owned free and clear of all Liens of any Person except (x) to the extent permitted by the Collateral and Guarantee Requirement, (y) those created under the Collateral Documents and (z) any nonconsensual Lien that is permitted under Section 7.01. As of the Closing Date, Schedule 5.12 (a) sets forth the name and jurisdiction of organization, incorporation or registration of each Subsidiary and (b) sets forth the ownership interest of Holdings in each of its Subsidiaries, including the percentage of such ownership.

Section 5.13 Margin Regulations; Investment Company Act. (a) As of the Closing Date, not more than 25% of the value of the Collateral of Holdings, the Borrowers and the other Restricted Subsidiaries, on a consolidated basis, is Margin Stock. No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of (i) purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB) or (ii) extending credit for the purpose of purchasing or carrying margin stock, and no proceeds of any Borrowings or drawings under any Letter of Credit will be used for any purpose that violates Regulation U.

(b) No Loan Party is an “investment company” as defined in the Investment Company Act of 1940.

Section 5.14 Disclosure. As of the Closing Date and, with respect to information relating to the Borrowers and the other Subsidiaries or their respective businesses, to the knowledge of the Lead Borrower, the written information and written data furnished or concerning the Loan Parties that has been made available to any Agent or any Lender by or on behalf of the Borrowers in connection with the Transaction, when taken as a whole, did not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements were made (after giving effect to all supplements and updates thereto); *provided*, that (a) with respect to financial estimates, projected financial information, forecasts and other forward-looking information, the Borrowers represent and warrant only that such information, when taken as a whole, was prepared in good faith based upon assumptions believed by the Borrowers to be reasonable at the time of preparation and at the time such financial estimates, projected financial information, forecasts and other forward looking information were made available to any Agent or Lender; it being understood that (i) such projections are not to be viewed as facts, (ii) such projections are subject to significant uncertainties and contingencies, many of which are beyond the Borrowers’ control, (iii) no assurance can be given that any particular projections will be realized and (iv) actual results during the period or periods covered by any such projections may differ significantly from the projected results and such differences may be material and (b) no representation or warranty is made with respect to information of a general economic or general industry nature.

Section 5.15 Intellectual Property; Licenses, Etc. The Borrowers and the other Restricted Subsidiaries own or have a valid license or right to use, all patents, trademarks, service marks, trade names, copyrights, domain names, know-how, and database rights (collectively, “**IP Rights**”) that are used in the operation of their respective businesses as currently conducted, except where the failure to own or have a valid license or right to use any such IP Rights, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Lead Borrower, the operation of the respective businesses of the Borrowers or any of the other Restricted Subsidiaries as currently conducted does not infringe upon misappropriate or otherwise violate any rights held by any Person, except for such infringements, misappropriations or violations that, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any IP Rights is pending or, to the knowledge of the Lead Borrower, threatened against any Borrower or any of the other Restricted Subsidiaries, which, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

Section 5.16 Solvency. On the Closing Date, after giving effect to the Transaction, the Borrowers and the other Restricted Subsidiaries, on a consolidated basis, are Solvent and, in relation to each Australian Loan Party and Australian Subsidiary thereof, no Australian Insolvency Event is subsisting.

Section 5.17 Use of Proceeds. All proceeds of the Facilities shall be used as provided in [Section 6.15](#).

Section 5.18 Compliance with Laws; PATRIOT Act; FCPA; OFAC.

(a) **Compliance with Laws Generally.** Each Loan Party and each Restricted Subsidiary is in compliance with the requirements of all applicable Laws (including, without limitation, the Sanctions Laws and Regulations, the FCPA, and the counter-terrorism financing provisions of the Currency and Foreign Transactions Reporting Act of 1970 (31 U.S.C. 5311 et. seq., (the Bank Secrecy Act), in each case including any such laws of Australia, including the Australian Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)), as amended by Title III of the PATRIOT Act, and all regulations issued pursuant to it) and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which (i) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate actions diligently conducted or (ii) the failure to comply therewith would not reasonably be expected to have a Material Adverse Effect.

(b) **FCPA.** No part of the proceeds of the Loans will be used, directly or, to the knowledge of the Lead Borrower, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the FCPA (or any such laws of Australia).

(c) **OFAC.** None of Holdings or any of its Subsidiaries, nor, to the knowledge of Holdings, any director, officer, employee or agent of Holdings or any of its Subsidiaries, (i) is a Designated Person or (ii) is currently the target of any U.S. sanctions administered by OFAC. No part of the proceeds of the Loans will be used, directly or, to the knowledge of the Lead Borrower, indirectly, in violation of any Sanctions Laws and Regulations, U.S. sanctions administered by OFAC or the PATRIOT Act, or otherwise in violation of OFAC, the Patriot Act or any other anti-terrorism or anti-money laundering Law (or any such laws of Australia, including the Australian Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)).

Section 5.19 Collateral Documents. Subject to the terms of [Section 4.01](#) and except as otherwise contemplated hereby or under any other Loan Documents, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral Documents, are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid and perfected Lien on the Collateral with the ranking or priority required by the relevant Collateral Documents (subject to Liens permitted by [Section 7.01](#)) on all right, title and interest of Holdings, the Borrowers and the other applicable Loan Parties, respectively, in the Collateral described therein (other than such Collateral in which a security interest cannot be perfected under the Uniform Commercial Code or by possession or control).

Notwithstanding anything herein (including this [Section 5.19](#)) or in any other Loan Document to the contrary, none of the Borrowers nor any other Loan Party makes any representation or warranty as to (A) the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest in any Equity Interests of any Subsidiary that is not a Loan Party, or as to the rights and remedies of the Agents or any Lender with respect thereto, under Law of any jurisdiction outside the United States and the Commonwealth of Australia, (B) the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or the enforceability of any pledge of or security interest to the extent such pledge, security interest, perfection or priority is not required pursuant to the Collateral and Guarantee Requirement or (C) on the Closing Date and until required pursuant to [Section 6.11](#) or 6.13 or the proviso at the end of [Section 4.01\(a\)](#), the pledge or creation of any security interest, or the effects of perfection or non-perfection, the priority or enforceability of any pledge or security interest to the extent not required on the Closing Date pursuant to [Section 4.01\(a\)\(iii\)](#).

Section 5.20 Insurance. Schedule 5.20 sets forth a listing of all material insurance maintained by the Borrowers and the other Restricted Subsidiaries as of the Closing Date (other than local insurance policies that are not material), with the amounts insured (and any deductibles) set forth therein.

Section 5.21 Immunity from Suit. No Australian Loan Party is entitled to claim any general immunity from suit or execution for itself or its assets.

Section 5.22 Benefit. The entering into and performance by an Australian Loan Party of its obligations under the Loan Documents to which it is expressed to be a party is for its commercial benefit.

Section 5.23 Trust. No Australian Loan Party enters into any Loan Document as trustee of any trust.

Section 5.24 Pari Passu Ranking. Each Australian Loan Party's payment obligations under the Loan Documents rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

ARTICLE VI **AFFIRMATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder or any Loan or other Obligation hereunder (other than (i) unasserted contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements and Obligations under Secured Cash Management Agreements) shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding (other than Letters of Credit which have been Cash Collateralized), the Borrowers shall, and shall (except in the case of the covenants set forth in Section 6.01, Section 6.02 and Section 6.03) cause each of the other Restricted Subsidiaries to:

Section 6.01 Financial Statements. Deliver to the Administrative Agent by Electronic Transmission for prompt further distribution to each Lender each of the following and shall take the following actions:

(a) within ninety five (95) days after the end of each fiscal year of Holdings (or such longer period as the Administrative Agent may agree to in its sole discretion) (commencing with the fiscal year ending December 31, 2021), a consolidated balance sheet of (A) Holdings and its Subsidiaries, as applicable, as at the end of such fiscal year, and the related consolidated statements of income or operations (as applicable), changes in members' equity and cash flows for such fiscal year together with related notes thereto, setting forth in each case in comparative form the figures for the previous fiscal year (*provided* that the financial statements delivered for the fiscal years ending December 31, 2021 and December 31, 2022 pursuant to this Section 6.01(a) shall not require comparative figures for the fiscal years ended December 31, 2020 and ending December 31, 2021, respectively), all in reasonable detail and prepared in accordance with GAAP or IFRS, as applicable (other than with respect to any comparisons), audited and accompanied by an opinion of any independent registered public accounting firm of nationally recognized standing (or such other independent registered public accounting firm reasonably acceptable to the Lead Borrower and the Administrative Agent), which opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit (other than as may be required as a result of (x) an actual or prospective default or event of default with respect to any financial covenant (including the financial covenants set forth in Section 7.10) or (y) the impending maturity of any Indebtedness);

(b) within (i) forty-five (45) days after the end of the first three fiscal quarters of each fiscal year of Holdings or (ii) ninety (90) days after the end of the last fiscal quarter of each fiscal year of Holdings (or, in each case, such longer period as the Administrative Agent may agree to in its sole discretion) (commencing with the fiscal quarter ending March 31, 2022), a consolidated balance sheet of Holdings and its Subsidiaries as at the end of such fiscal quarter, and the related (i) consolidated statements of income or operations (as applicable) for such fiscal quarter and for the portion of the fiscal year then ended and (ii) consolidated statements of cash flows for the portion of the fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year (in the case of consolidated statements of income or operations, as applicable) and the corresponding portion of the previous fiscal year (in the case of consolidated statements of income or operations (as applicable) or cash flows) (*provided* that the financial statements delivered for the fiscal quarters ending December 31, 2021, March 31, 2022, June 30, 2022 and September 30, 2022 pursuant to this Section 6.01(b) shall not require comparative figures to the prior year), all in reasonable detail and certified by a Responsible Officer of the Lead Borrower as fairly presenting in all material respects the financial position, results of operations and cash flows of Holdings and its Subsidiaries in accordance with GAAP or IFRS, as applicable (other than with respect to any comparisons), subject to year-end adjustments and the absence of footnotes; and

(c) simultaneously with the delivery of each set of consolidated financial statements referred to in Section 6.01(a) and Section 6.01(b) above, if applicable, an internally prepared management summary of pro forma adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements.

Notwithstanding the foregoing, the obligations in clauses (a) and (b) of this Section 6.01 may be satisfied with respect to financial information of Holdings and its Subsidiaries by furnishing and/or publicly filing (A) the applicable financial statements of the Public Parent (or any direct or indirect parent of Holdings that holds all of the Equity Interests of Holdings) or (B) the Public Parent or such other parent's Form 10-K or 10-Q, as applicable, filed with the SEC; *provided* that, with respect to each of clauses (A) and (B), (i) to the extent such information relates to a parent of Holdings, such information is accompanied by an internally prepared management summary of consolidating information that explains in reasonable detail the differences (if any) between the information relating to such parent and its Subsidiaries on a consolidated basis, on the one hand, and the information relating to Holdings and the Subsidiaries on a consolidated basis, on the other hand, and (ii) to the extent such information is in lieu of information required to be provided under Section 6.01(a), such materials are accompanied by an opinion of an independent registered public accounting firm of nationally recognized standing, which opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of such audit (other than as may be required as a result of (x) an actual or prospective default or event of default with respect to any financial covenant (including the financial covenants set forth in Section 7.10) or (y) the impending maturity of any Indebtedness.

Any financial statements required to be delivered pursuant to Section 6.01(a) or Section 6.01(b) shall not be required to contain purchase accounting adjustments relating to the Transaction or any other acquisition to the extent it is not practicable to include any such adjustments in such financial statements.

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

(a) no later than five (5) days after the delivery of the financial statements (i) referred to in Section 6.01(a) commencing with the delivery of the financial statements for the fiscal year ending December 31, 2021 and (ii) referred to in Section 6.01(b) for the first three fiscal quarters of each fiscal year, a duly completed Compliance Certificate signed by the chief financial officer (or other Responsible Officer with primary responsibility for financial matters) of Holdings or the Lead Borrower, describing the operations and financial condition of the Loan Parties and their Restricted Subsidiaries for the fiscal quarter or the fiscal year then ended, as applicable;

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

(c) promptly after the furnishing thereof, copies of any material statements or material reports furnished to any holder of any class or series of debt securities of any Loan Party having an aggregate outstanding principal amount greater than the Threshold Amount (in each case, other than in connection with any board observer rights), pursuant to the governing documentation for such debt securities so long as the aggregate outstanding principal amount thereunder is greater than the Threshold Amount and not otherwise required to be furnished to the Administrative Agent pursuant to any other provision of this Article VI;

(d) together with the delivery of a Compliance Certificate with respect to the financial statements referred to in (x)Section 6.01(a) (commencing with the financial statements for the fiscal year ending December 31, 2022), (i) a report setting forth the information required by Section 3.03(c)(i) of the Security Agreement (or confirming that there has been no change in such information since the Closing Date or the date of the last such report or other disclosure of such information to the Administrative Agent), (ii) a description of each event, condition or circumstance during the fiscal year covered by such Compliance Certificate requiring a mandatory prepayment under Section 2.05(b)(ii) or Section 2.05(b)(iii) and (iii) a list of each Subsidiary of Holdings that identifies each Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such Compliance Certificate or a confirmation that there is no change in such information since the later of the Closing Date and the date of the last such list or other disclosure of such information to the Administrative Agent, and (y)Sections 6.01(a) and 6.01(b), (commencing with the financial statements for the fiscal year ending December 31, 2021 and the fiscal quarter ending March 31, 2022, respectively) a report setting forth the information required by Section 3.03(c)(ii) of the Security Agreement (or confirming that there has been no change in such information since the Closing Date or the date of the last such report or other disclosure of such information to the Administrative Agent); and

(e) promptly, such additional financial information and/or final accountants' letters (in each case to the extent readily available) regarding any Loan Party or any Restricted Subsidiary as the Administrative Agent may from time to time on its own behalf or on behalf of any Lender reasonably request; provided that such additional financial information (i) does not constitute non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is not prohibited by Law or any binding agreement with any third party, (iii) is not subject to attorney-client or similar privilege and does not constitute attorney work product and (iv) is otherwise prepared by such Loan Party in the ordinary course of business and is of a type customarily provided to lenders in similar syndicated credit facilities.

Documents, certificates, other information and notices required to be delivered pursuant toSections 6.01 and 6.02 shall be delivered via Electronic Transmission and shall be deemed to have been delivered on the date (i) on which the Borrowers (or any direct or indirect parent of the Borrowers) post such documents, or provide a link thereto on its website on the Internet at a website address provided to the Administrative Agent, if any; or (ii) on which such documents are delivered by the Borrowers (or any direct or indirect parent of the Borrowers) (including by facsimile or electronic mail) to the Administrative Agent or its designee for posting on any Borrower's behalf on Intralinks®, Syndtrak® or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); or (iii) with respect to the items required to be delivered pursuant to Section 6.02 above in respect of information filed by Holdings, the Borrowers or any other Restricted Subsidiary with any securities exchange or the SEC or any governmental or private regulatory authority (other than Form 10-K and 10-Q reports satisfying the requirements in Sections 6.01(a) and (b), respectively), such items have been made available on the website of such exchange authority or the SEC; *provided* that each Lender shall be solely responsible for timely accessing posted documents and maintaining its copies of such documents.

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

(a) of the occurrence of any Event of Default; and

(b) of the filing or commencement of, or any material development in, any investigation, litigation or proceeding or ERISA Event affecting any Borrower or any other Restricted Subsidiary that has resulted or would reasonably be expected to result in a Material Adverse Effect.

Each notice pursuant to this Section 6.03 shall be an Electronic Transmission and shall be accompanied by a written statement of a Responsible Officer of the Lead Borrower (x) that such notice is being delivered pursuant to Section 6.03(a) or (b) (as applicable) and (y) setting forth details of the occurrence referred to therein and stating what action the Lead Borrower has taken and proposes to take with respect thereto.

Section 6.04 Payment of Taxes. Timely pay, discharge or otherwise satisfy, as the same shall become due and payable, all of its obligations and liabilities in respect of taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (i) any such tax, assessment, charge or levy is being contested in good faith and by appropriate actions and for which appropriate reserves have been established in accordance with GAAP or IFRS, as applicable, or (ii) the failure to pay or discharge the same would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

Section 6.05 Preservation of Existence, Etc. (a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization or incorporation and (b) take all reasonable action to obtain, preserve, renew and keep in full force and effect those of its rights (including IP Rights), licenses, permits, privileges, and franchises, which are material to the conduct of its business, except in the case of clause (a) or (b) to the extent (x) (other than with respect to the preservation of the existence of the Lead Borrower) that failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or (y) pursuant to any merger, amalgamation, consolidation, liquidation, dissolution or Disposition permitted by Article VII.

Section 6.06 Maintenance of Properties. Except if the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and casualty or condemnation excepted.

Section 6.07 Maintenance of Insurance. Maintain with insurance companies that the Borrowers believe (in the good faith judgment of their management) are financially sound and reputable at the time the relevant coverage is placed or renewed or with a Captive Insurance Subsidiary, insurance with respect to its properties and business against loss or damage, of such types and in such amounts as reasonably determined in good faith by the management of the Borrowers as appropriate for the business of the Borrowers and the other Restricted Subsidiaries (after giving effect to any self-insurance reasonable and customary for similarly situated Persons as reasonably determined in good faith by the management of the Borrowers as appropriate for the business of the Borrowers and the other Restricted Subsidiaries, and, so long as there is any Material Real Property which is subject to a Mortgage, including flood insurance sufficient to cause Lenders to be in compliance with all applicable federal laws and regulations regarding flood insurance), and will furnish to the Lenders, upon reasonable written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried. The Borrowers shall use commercially reasonable efforts to ensure that each such policy of insurance (other than business interruption insurance (if any), director and officer insurance and worker's compensation insurance) shall, unless otherwise agreed by the Administrative Agent, as appropriate, (i) in the case of each liability insurance policy, name the Collateral Agent, on behalf of the Secured Parties, as an additional insured thereunder as its interests may appear and/or (ii) in the case of each casualty insurance policy, contain a loss payable clause or endorsement that names the Collateral Agent, on behalf of the Secured Parties, as the loss payee thereunder (in the case of property insurance with respect to the Collateral).

Section 6.08 Compliance with Laws. Comply in all material respects with its Organization Documents and the requirements of all Laws (including, without limitation, Sanctions Laws and Regulations, and FCPA), and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except, in each case, in instances in which (a) such requirement of Law, order, writ, injunction or decree is being contested in good faith by appropriate actions diligently conducted or (b) the failure to comply therewith would not reasonably be expected individually or in the aggregate to have a Material Adverse Effect.

Section 6.09 Compliance with ERISA. No Loan Party nor any ERISA Affiliate shall cause or suffer to exist (a) any event that could result in the imposition of a Lien on any asset of a Loan Party or a Restricted Subsidiary with respect to any Employee Benefit Plan, Pension Plan or Multiemployer Plan or (b) any other ERISA Event, in each case under the foregoing clauses (a) and (b), that would, in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 6.10 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom (other than the records of the board of managers (or equivalent governing body) of such Loan Party or such Restricted Subsidiary), and to discuss its affairs, finances and accounts with its directors, officers, and, to the extent an Event of Default has occurred and is continuing, independent public accountants (subject to such accountants' customary policies and procedures), all at the reasonable expense of the Borrowers and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Lead Borrower; *provided* that only the Administrative Agent on behalf of the Lenders

may exercise rights of the Administrative Agent and the Lenders under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than one (1) time during any calendar year absent the existence of an Event of Default and such one (1) time shall be at the Borrowers' expense (it being understood that unless an Event of Default has occurred and is continuing, the Administrative Agent shall only visit locations where books and records and/or senior officers are located); *provided, further,* that when an Event of Default exists, the Administrative Agent (or any of its respective representatives or independent contractors) on behalf of the Lenders may do any of the foregoing at the expense of the Borrowers at any time during normal business hours and upon reasonable advance notice. The Administrative Agent shall give the Borrowers the opportunity to participate in any discussions with the Borrowers' independent public accountants. Notwithstanding anything to the contrary in this Section 6.10, none of Holdings, the Borrowers or any of the other Restricted Subsidiaries will be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that (a) constitutes non-financial trade secrets or non-financial proprietary information, (b) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Law or any binding agreement with any third party or (c) is subject to attorney-client or similar privilege or constitutes attorney work product; *provided* that, to the extent legally permissible, the Lead Borrower shall notify the Administrative Agent that any such document, information or other matter is being withheld pursuant to clauses (a), (b) or (c) of this Section 6.10 and shall use commercially reasonable efforts to communicate, to the extent permitted, the applicable information in a way that would not violate such restrictions.

Section 6.11 Covenant to Guarantee Obligations and Give Security. From and after the Closing Date, at the Borrowers' expense, in accordance with and subject to the terms, conditions, and limitations of Collateral and Guarantee Requirement and any applicable limitation in any Collateral Document, take all action necessary or reasonably requested by the Administrative Agent or the Collateral Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:

(a) upon the formation, incorporation or acquisition of any new direct or indirect wholly owned Material Subsidiary (in each case, other than an Excluded Subsidiary) by any Loan Party, the designation in accordance with Section 6.14 of any existing direct or indirect wholly owned Material Subsidiary as a Restricted Subsidiary (other than an Excluded Subsidiary) or upon any wholly owned Material Subsidiary ceasing to be an Excluded Subsidiary:

(i) within the later of forty-five (45) days (or ninety (90) days in the case of any item or deliverable with respect to Material Real Property and subject to the limitations set forth in Section 6.13(b)) or the date of delivery of the Compliance Certificate for any fiscal quarter in which such formation, incorporation, acquisition or designation occurred (or, in each case, such longer period as the Administrative Agent may agree to in its reasonable discretion) after such formation, incorporation, acquisition or designation:

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

(B) cause each such Material Subsidiary that is required to become a Subsidiary Guarantor pursuant to the Collateral and Guarantee Requirement to duly execute and deliver to the Collateral Agent Mortgages with respect to any Material Real Property, joinders to the Guaranty, Security Agreement Supplements, Intellectual Property Security Agreements and any applicable Intercreditor Agreement and other security agreements and documents (including, with respect to Mortgages, the documents listed in Section 6.13(b) and subject to the limitation set forth therein) required by the Collateral Documents or, as reasonably requested by and in form and substance reasonably satisfactory to the Collateral Agent (consistent with the Security Agreement, Intellectual Property Security Agreements and other Collateral Documents in effect on the Closing Date), in each case granting the Guarantees and Liens required by the Collateral and Guarantee Requirement;

(C) cause each such Material Subsidiary that is required to become a Subsidiary Guarantor pursuant to the Collateral and Guarantee Requirement to deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers, share transfer forms or other appropriate instruments of transfer executed in blank and instruments evidencing the intercompany Indebtedness held by such Material Subsidiary and required to be pledged pursuant to the Collateral Documents, indorsed in blank to the Collateral Agent;

(D) take and cause the applicable Material Subsidiary and each direct or indirect parent of such applicable Material Subsidiary that is required to become a Subsidiary Guarantor pursuant to the Collateral and Guarantee Requirement to take whatever action (including the recording of Mortgages, the filing of financing statements under the Uniform Commercial Code, PPSA or other applicable Laws and other applicable registration forms and filing statements, and delivery of stock, share and other membership interest certificates and powers (or equivalent) to the extent certificated) as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid and perfected (to the extent required by the Collateral and Guarantee Requirement and the Collateral Documents) Liens required by the Collateral and Guarantee Requirement;

(ii) within (45) days (or ninety (90) days in the case of any opinion with respect to Material Real Property and subject to the limitations set forth in Section 6.13(b)) (or, in each case, such longer period as the Administrative Agent may agree to in its reasonable discretion and, in any event, not prior to the date of delivery of the Compliance Certificate for any fiscal quarter in which such formation, incorporation, acquisition or designation occurred) after the reasonable request, if any, therefor by the Administrative Agent, deliver to the Administrative Agent a signed copy of one or more customary opinions, addressed to the Administrative Agent and the other Secured Parties, of counsel(s) for the Loan Parties reasonably acceptable to the Administrative Agent as to such matters set forth in this Section 6.11(a) as the Administrative Agent may reasonably request; and

(b) to the extent not executed and delivered on the Closing Date, execute and deliver, or cause to be executed and delivered, the Collateral Documents set forth on Schedule 1.01B on or prior to the dates corresponding to such Collateral Documents set forth on Schedule 1.01B (or later date(s) as the Administrative Agent may agree to in its reasonable discretion); and

(i) after the Closing Date, promptly after the acquisition of any Material Real Property by any Loan Party other than Holdings, and to the extent such Material Real Property shall not already be subject to a valid and perfected Lien pursuant to the Collateral and Guarantee Requirement, the Lead Borrower shall give notice thereof to the Collateral Agent and will take, or cause the relevant Loan Party to take, the actions referred to in Section 6.13(b).

Section 6.12 Compliance with Environmental Laws. Except, in each case, to the extent that the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, comply, and take all reasonable actions to cause any lessees and other Persons operating or occupying its properties to comply, with all applicable Environmental Laws and Environmental Permits.

Section 6.13 Further Assurances. Subject to the provisions and limitations of the Collateral and Guarantee Requirement and any applicable limitations in any Collateral Document and in each case at the expense of the Borrowers:

(a) Promptly upon reasonable request by the Administrative Agent or the Collateral Agent or as may be required by applicable Laws (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.

(b) In the case of any Material Real Property acquired after the Closing Date by any Loan Party (other than Holdings), provide the Collateral Agent with a Mortgage in respect of such Material Real Property within ninety (90) days (or such longer period as the Administrative Agent may agree in its sole discretion) of the acquisition of such Material Real Property in each case together with:

(i) evidence that counterparts of the Mortgages have been duly executed, acknowledged and delivered and are in form suitable for filing or recording in all filing or recording offices that the Collateral Agent may deem reasonably necessary or desirable in order to create a valid and perfected Lien on such Material Real Property in favor of the Collateral Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Collateral Agent;

(ii) to the extent reasonably requested by the Administrative Agent, legal opinions from (1) local counsel for the Loan Parties, or, in the case of the Australian Loan Parties, the Collateral Agent, in states in which such Material Real Property is located, with respect to, without limitation, the enforceability and perfection of the Mortgages and any related fixture filings, and (2) outside counsel or local counsel, as applicable, for the Loan Parties or, in the case of the Australian Loan Parties, outside counsel of the Collateral Agent, with respect to, without limitation, the due authorization, execution and delivery of the Mortgages, in each case in form and substance reasonably satisfactory to the Administrative Agent;

(iii) such other evidence that all other actions that the Administrative Agent or Collateral Agent may reasonably deem necessary or desirable in order to create valid and subsisting Liens on the real property described in the Mortgages have been taken; and

(iv) in the case of the Loan Parties (other than any Australian Loan Party), each of the following:

(A) fully paid American Land Title Association Lender's Extended Coverage title insurance policies or the equivalent or other form available in each applicable jurisdiction (the "**Mortgage Policies**") in form and substance, with endorsements available in the applicable jurisdiction and in amount, reasonably acceptable to the Collateral Agent (not to exceed the value of the real properties covered thereby), issued, coinsured and reinsured by title insurers reasonably acceptable to the Collateral Agent, insuring the Mortgages to be valid subsisting Liens on the real property described therein in the ranking or the priority of which it is expressed to have within the Mortgages, subject only to Liens permitted by **Section 7.01**, and providing for such other affirmative insurance (including endorsements for future advances under the Loan Documents) and such coinsurance and direct access reinsurance as the Collateral Agent may reasonably request and is available in the applicable jurisdiction;

(B) as promptly as practicable after the reasonable request therefor by the Administrative Agent or the Collateral Agent, surveys and Phase I type environmental assessment reports and appraisals (if required under FIRREA); *provided* that the Administrative Agent may in its reasonable discretion accept any such existing report or survey to the extent prepared as of a date reasonably satisfactory to the Administrative Agent; *provided further* that such existing survey shall be sufficient for the title insurance company to remove the standard survey exceptions from the Mortgage Policy relating to such Material Real Property (or to modify such survey exceptions in the manner required by applicable insurance regulations in the applicable jurisdiction) and issue the title coverage required pursuant to the provisions of clause (ii) above; *provided, however*, that there shall be no obligation to deliver to the Administrative Agent any environmental site assessment report whose disclosure to the Administrative Agent would require the consent of a Person other than any Borrower or one of the other Subsidiaries, where, despite the commercially reasonable efforts of the Borrowers to obtain such consent, such consent cannot be obtained; and

(C) "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determinations with respect to each parcel of improved Material Real Property to be subjected to a Mortgage (together with, in the event that a building on any parcel of improved Material Real Property to be subjected to a Mortgage is located in a flood hazard area, notice about special flood hazard area status and flood disaster assistance, duly executed by the applicable Loan Party), and in the event that a building on any parcel of improved Material Real Property to be subjected to a Mortgage is located in a flood hazard area, evidence of flood insurance in an amount reasonably satisfactory to the Collateral Agent and, in any event, sufficient to cause Lenders to be in compliance with all applicable federal laws and regulations regarding flood insurance.

Section 6.14 Designation of Subsidiaries. The Lead Borrower may at any time after the Closing Date designate (orre-designate) any Restricted Subsidiary as an Unrestricted Subsidiary or designate (or re-designate, as the case may be) any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that (i) after such designation (orre-designation), no Event of Default shall have occurred and be continuing, (ii) immediately after such designation (or redesignation), the Borrowers shall be in compliance on a Pro Forma Basis with the financial covenants in Section 7.10 as of the last day of the most recently ended Test Period on or prior to the date of determination, (iii) no Subsidiary may be designated as an Unrestricted Subsidiary if, after such designation, it would be a "Restricted Subsidiary" for the purpose of any Incremental Equivalent Debt, Refinancing Equivalent Debt or Junior Financing, and (iv) the Investment resulting from the designation of such Subsidiary as an Unrestricted Subsidiary as described in the immediately succeeding sentence is permitted by Section 7.02; *provided, further*, that the Borrowers and the other Restricted Subsidiaries may not transfer to or grant an exclusive license of Material Intellectual Property to Unrestricted Subsidiaries or designate a Restricted Subsidiary that owns or has an exclusive license of Material Intellectual Property as an Unrestricted Subsidiary. The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the applicable Borrower or Subsidiary therein at the date of designation in an amount equal to the fair market value as determined by the Lead Borrower in good faith of the applicable Borrower's or Subsidiary's Investment therein. The 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 and a return on any Investment by the applicable Borrower or Subsidiary in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the fair market value as determined by the Lead Borrower in good faith at the date of such designation of the applicable Borrower's or Subsidiary's Investment in such Subsidiary.

Section 6.15 Use of Proceeds. Use the proceeds (a) of the Initial Term Loans, whether directly or indirectly, (i) to finance a portion of the Transaction, including the payment of Transaction Expenses, and (ii) for working capital and other general corporate purposes, (b) of the Revolving Credit Loans made available on the Closing Date, for working capital needs, capital expenditures and other general corporate purposes, including to pay Transaction Expenses; *provided* that the aggregate principal amount of Revolving Credit Loans and Swing Line Loans made on the Closing Date shall not exceed \$25,000,000 (exclusive of Letters of Credit and amounts used to finance Transaction Expenses) and (c) of any Borrowing after the Closing Date, for any purpose not otherwise prohibited under this Agreement, including for general corporate purposes, working capital needs, Capital Expenditures, Permitted Acquisitions and other permitted Investments, Restricted Payments, refinancing of indebtedness and any other transaction not prohibited by this Agreement.

Section 6.16 Post-Closing Matters. Notwithstanding anything to the contrary set forth in this Agreement, the Lead Borrower agrees to use commercially reasonable efforts to deliver to the Administrative Agent, on behalf of the Lenders, the documents set forth on Schedule 6.16, in form and substance reasonably satisfactory to the Administrative Agent, and/or take the actions set forth on Schedule 6.16, in a manner reasonably acceptable to the Administrative Agent, on or before the deadlines set forth on Schedule 6.16 (as such deadlines may be extended by the Administrative Agent in its reasonable discretion). To the extent there is any conflict between the provisions of any Loan Document and Schedule 6.16, the provisions of Schedule 6.16 shall control. To the extent any representation and warranty contained herein or in any other Loan Document would not be true or any provision of any covenant contained herein or in any other Loan Document would be breached because the foregoing actions were not taken on the Closing Date, the respective representation and warranty shall be required to be true and correct in all material respects and the respective covenant complied with at the time the respective action is taken (or was required to be taken) in accordance with this Section 6.16 (and the corresponding Schedule 6.16).

Section 6.17 Compliance with FCPA and the Sanctions Laws and Regulations. Take reasonable measures to establish and maintain policies and procedures that are reasonably designed (in the Lead Borrower's good faith discretion) to maintain compliance in all material respects with the FCPA and the Sanctions Laws and Regulations.

Section 6.18 Accounting Changes(a) . Maintain its fiscal year;*provided, however,* that the Lead Borrower may, upon written notice to the Administrative Agent, change its fiscal year to any other fiscal year reasonably acceptable to the Administrative Agent, in which case, the Lead Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such change in fiscal year.

Section 6.19 Tax Consolidation. If it becomes a member of a Consolidated Group, ensure that:

- (a) it (and each member of the Consolidated Group to which it is a member) is a party to a Tax Sharing Agreement which covers all Group Liabilities of the Consolidated Group of which it is a member;
- (b) it (and each member of the Consolidated Group to which it is a member) is a party to a Tax Funding Agreement;
- (c) the Tax Sharing Agreement and Tax Funding Agreement continue to be legal, binding and enforceable and in full force and effect and are not amended without the prior written consent of the Lenders (acting reasonably), in a manner that could adversely affect the rights of the Lenders or result in the Tax Sharing Agreement not being a Tax Sharing Agreement for the purposes of the Australian Tax Act; and
- (d) all members of the Consolidated Group comply with the Tax Sharing Agreement and Tax Funding Agreement.

ARTICLE VII NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder or any Loan or other Obligation hereunder (other than (i) unasserted contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements and Obligations under Secured Cash Management Agreements) shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding (other than Letters of Credit which have been Cash Collateralized) the Borrowers shall not (and, with respect to Section 7.13 only, Holdings shall not), nor shall the Borrowers permit any other Restricted Subsidiary to:

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

- (a) (i) Liens created pursuant to any Loan Document, (ii) Liens on cash or deposits to Cash Collateralize any Letters of Credit as contemplated hereunder, and (iii) Liens securing obligations in respect of Indebtedness permitted under Sections 7.03(a) and (u);
- (b) Liens existing on the date hereof and set forth on Schedule 7.01(b);
- (c) Liens for taxes, assessments or governmental charges that are not yet due and payable or not overdue for a period of more than thirty (30) days or if more than thirty (30) days overdue, (i) that are being contested in good faith and by appropriate actions for which appropriate reserves have been established in accordance with GAAP or IFRS, as applicable, or (ii) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;

(d) statutory or common law Liens of landlords, sublandlords, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens, or other customary Liens in favor of landlords, so long as, in each case, such Liens secure amounts not overdue for a period of more than sixty (60) days or, if more than sixty (60) days overdue (i) no other action has been taken to enforce such Lien, (ii) such Lien is being contested in good faith and by appropriate actions for which appropriate reserves have been established in accordance with GAAP or IFRS, as applicable, or (iii) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;

(e) pledges or deposits (i) in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security laws or similar legislation, health, disability or other employee benefits, (ii) in the ordinary course of business securing liability for reimbursement or indemnification obligations of insurance carriers providing property, casualty or liability insurance to Holdings or any Restricted Subsidiaries or any other insurance or self-insurance arrangements and (iii) in respect of letters of credit or bank guarantees that have been posted by any Borrower or any other Restricted Subsidiary to support the payments of the items set forth in clauses (i) and (ii) of this Section 7.01(e);

(f) pledges or deposits (i) to secure the performance of bids, tenders, trade contracts, governmental contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety, stay, customs, bid and appeal bonds, performance and return of money bonds, performance and completion guarantees, agreements with utilities and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business or consistent with industry practice and (ii) in respect of letters of credit or bank guarantees that have been posted to support payment of the items set forth in clause (i) of this Section 7.01(f);

(g) easements, servitudes, rights-of-way, restrictions (including zoning, building and similar restrictions), encroachments, protrusions, covenants, variations in area of measurement, declarations on or with respect to the use of property, matters of record affecting title, liens restricting or prohibiting access to or from lands abutting on controlled access highways or covenants affecting the use to which lands may be put, and other similar encumbrances and title defects affecting real property that, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of Holdings, the Borrowers and the other Restricted Subsidiaries taken as a whole, or the use of the property for its intended purpose, and any other exceptions to title on the Mortgage Policies accepted by the Collateral Agent in accordance with this Agreement;

(h) Liens arising from judgments or orders for the payment of money (or appeal or other surety bonds relating thereto) not constituting an Event of Default under Section 8.01(g);

(i) (i) Liens securing obligations in respect of Indebtedness permitted under Section 7.03(e); *provided* that (A) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, replacements thereof and additions and accessions to such property and the proceeds and the products thereof and customary security deposits and (B) such Liens do not at any time extend to or cover any assets (except for additions and accessions to such assets, the proceeds and products thereof and customary security deposits) other than the assets subject to, or acquired, constructed, repaired or improved with the proceeds of such Indebtedness; *provided* that, in the case of each of subclause (A) and (B), individual financings provided by one lender may be cross collateralized to other financings provided by such lender or its Affiliates and (ii) Liens on assets of Non-Loan Parties securing Indebtedness of such Non-Loan Parties permitted pursuant to Section 7.03 or other obligations of any Non-Loan Party not constituting Indebtedness;

(j) (i) leases, licenses, subleases or sublicenses (including with respect to intellectual property and software) granted to others in the ordinary course of business (or other agreements under which any Borrower or any other Restricted Subsidiary has granted rights to end users to access and use any Borrower's or any other Restricted Subsidiary's products, technologies or services in the ordinary course of business) which do not (A) interfere in any material respect with the business of Holdings, the Borrowers and the other Restricted Subsidiaries, taken as a whole, or (B) secure any Indebtedness for borrowed money and (ii) the rights reserved or vested in any Person by the terms of any lease, license, sublease, sublicense, franchise, grant or permit held by any Borrower or any other Restricted Subsidiary or by a statutory provision, to terminate any such lease, license, sublease, sublicense, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(k) Liens (i) in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business and (iii) on specific items of inventory or other goods and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or such other goods in the ordinary course of business;

(l) Liens (i) of a collection bank arising underSection 4-208 of the Uniform Commercial Code or other similar provisions of applicable Laws on the items in the course of collection and (ii) in favor of a banking or other financial institution arising as a matter of common or statutory Law or under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of setoff);

(m) Liens (i) on advances of cash or Cash Equivalents in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 7.02 to be applied against the purchase price for such Investment or (ii) consisting of an agreement to Dispose of any property in a Disposition permitted under Section 7.05, in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien or on the date of any contract for such Investment or Disposition;

(n) Liens in favor of any Borrower or any other Restricted Subsidiary securing Indebtedness owing to such Borrower or such Restricted Subsidiary permitted under Section 7.03; *provided* that no Loan Party shall grant a Lien in favor of anyNon-Loan Party;

(o) Liens existing on property at the time of its acquisition or existing on the property (or Equity Interests) of any Person at the time such Person becomes a Restricted Subsidiary, in each case after the date hereof (but excluding Liens deemed to be incurred upon the designation (or re-designation) of an Unrestricted Subsidiary as a Restricted Subsidiary); *provided* that (i) such Lien was not created in contemplation of such acquisition or such Person becoming a Restricted Subsidiary, (ii) such Lien does not extend to or cover any other property of any Borrower or any other Restricted Subsidiary other than the Person(s) acquired and/or formed to make such acquisitions and Subsidiaries of such Person(s) (other than the proceeds or products thereof and other than after-acquired property of and Equity Interests in such acquired Restricted Subsidiary (it being understood and agreed to the extent such Lien secures Indebtedness assumed pursuant to Section 7.03(g) consisting of financings of the type described inSection 7.03(e), any such individual financings by any lender may be cross-collateralized to other financings of such type provided by such lender or its Affiliates)) and (iii) the Indebtedness secured thereby is permitted under Section 7.03(g);

(p) any interest or title (and any encumbrances on such interest or title) of a lessor, sublessor, licensor or sublicensor or secured by a lessor's, sublessor's, licensor's or sublicensor's interest under leases or subleases (other than Capitalized Leases) or licenses or sublicenses, in each case entered into by any Borrower or any of the other Restricted Subsidiaries in the ordinary course of business;

(q) (i) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by any Borrower or any of the other Restricted Subsidiaries in the ordinary course of business and (ii) Liens or other similar provisions of applicable Laws under Article 2 of the Uniform Commercial Code or similar provisions of applicable Laws in favor of a seller or buyer of goods;

(r) Liens deemed to exist in connection with Investments in repurchase agreements permitted underSection 7.02 and reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the ordinary course of business and not for speculative purposes;

(s) to the extent constituting Liens, Dispositions expressly permitted underSection 7.05:

(t) Liens that are customary contractual rights of setoff or banker's liens (i) relating to the establishment of depository relations with banks or other deposit-taking financial institutions in the ordinary course and not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit, automatic clearinghouse accounts or sweep accounts of Holdings, any Borrower or any of the other Restricted Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of Holdings, any Borrower or any of the other Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of any Borrower or any of the other Restricted Subsidiaries in the ordinary course of business;

(u) Liens solely on any cash money deposits made by any Borrower or any of the other Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(v) ground leases or subleases in respect of real property on which facilities or equipment owned or leased by any Borrower or any of the other Restricted Subsidiaries are located;

(w) Liens evidenced by the filing of Uniform Commercial Code financing statements, PPSA financing statements or similar public filings, registrations or agreements in foreign jurisdictions, in each case, relating to leases permitted under this Agreement, and other precautionary statements, filings or agreements;

(x) Liens on insurance policies and the proceeds thereof, and cash deposits, in each case securing the financing of the premiums with respect thereto;

(y) customary rights of first refusal and tag, drag and similar rights in joint venture agreements entered into in the ordinary course of business;

(z) customary Liens of an indenture trustee on money or property held or collected by it to secure fees, expenses and indemnities owing to it by any obligor under an indenture;

(aa) any encumbrance or restriction (including put and call arrangements) with respect to Equity Interests of any Joint Venture, Subsidiary that is not wholly owned or similar arrangement pursuant to any Joint Venture, non-wholly owned Subsidiary or similar agreement and not for Indebtedness for borrowed money, other than Indebtedness (to the extent otherwise permitted or not prohibited hereunder) of such Joint Venture or non-wholly owned Subsidiary;

(bb) [reserved];

(cc) any zoning, building or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Borrowers and the other Restricted Subsidiaries, taken as a whole;

(dd) the modification, replacement, renewal, refinancing or extension of any Lien permitted by clauses (b), (i), (o) and (ii) of this Section 7.01 and this Section 7.01(dd); *provided* that (i) the Lien does not extend to any additional property other than (A)(x) accessions, additions and improvements on the property originally subject to the Lien, (y) after-acquired property that is affixed or incorporated into the property covered by such Lien or financed or refinanced by Indebtedness permitted under Section 7.03, to the extent such refinancing Indebtedness is of a kind (and in an amount) permitted to be secured by such after-acquired property pursuant to any other clause in this Section 7.01 and (z) in the case of Liens originally permitted by Section 7.01(o), after-acquired property of the applicable Restricted Subsidiary to the extent the security agreements in place at the time of the acquisition of such Restricted Subsidiary required the grant of such Lien in after-acquired property, and (B) proceeds and products thereof (it being understood and agreed that individual financings of the type described in Section 7.03(e) by any lender may be cross-collateralized to other financings of such type provided by such lender or its Affiliates), and (ii) the replacement, renewal, extension or refinancing of the obligations secured or benefited by such Liens is, if constituting Indebtedness, permitted by Section 7.03;

(ee) Liens on all or a portion of the Collateral securing obligations in respect of Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt and any Permitted Refinancing of any of the foregoing; *provided* that (x) any such Liens securing such Indebtedness that is secured by all or a portion of the Collateral on a pari passu basis (but without regard to control of remedies) with the Obligations shall be subject to a First Lien Intercreditor Agreement or to other customary intercreditor arrangements reasonably acceptable to the Lead Borrower and the Administrative Agent and (y) any such Liens securing such Indebtedness that is secured by all or a portion of the Collateral on a junior basis to the Liens securing the Obligations shall be subject to a Second Lien Intercreditor Agreement or to other customary intercreditor arrangements reasonably acceptable to the Lead Borrower and the Administrative Agent;

(ff) (i) deposits of cash with the owner or lessor of premises leased or operated by any Borrower or any of the other Restricted Subsidiaries and (ii) cash collateral on deposit with banks or other financial institutions issuing letters of credit (or backstopping such letters of credit) or other equivalent bank guarantees issued naming as beneficiaries the owners or lessors of premises leased or operated by any Borrower or any of the other Restricted Subsidiaries, in each case in the ordinary course of business of such Borrower and such Restricted Subsidiaries to secure the performance of such Borrower's or such Restricted Subsidiary's obligations under the terms of the lease for such premises;

(gg) Liens on cash or Cash Equivalents used to defease or to satisfy and discharge Indebtedness; *provided* that such defeasance or satisfaction and discharge is not prohibited hereunder;

(hh) Liens securing obligations in respect of Indebtedness permitted under Section 7.03(r); *provided* that (x) any such Liens securing such Indebtedness that is secured by all or a portion of the Collateral on a pari passu basis (but without regard to control of remedies) with the Obligations shall be subject to a First Lien Intercreditor Agreement or to other customary intercreditor arrangements reasonably acceptable to the Lead Borrower and the Administrative Agent and (y) any such Liens securing such Indebtedness that is secured by all or a portion of the Collateral on a junior basis to the Liens securing the Obligations shall be subject to a Second Lien Intercreditor Agreement or to other customary intercreditor arrangements reasonably acceptable to the Lead Borrower and the Administrative Agent;

(ii) other Liens securing Indebtedness or other obligations in an aggregate principal amount at the time of incurrence of any such Indebtedness or other obligations not exceeding the greater of (x) \$32,000,000 and (y) 40.0% of Consolidated EBITDA determined at the time of incurrence of Indebtedness or other obligations secured by such Lien (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination; *provided* that if the Total Net Leverage Ratio (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period is equal to or less than 2.50:1.00, any Borrower or any other Restricted Subsidiaries may secure up to the greater of (x) \$8,000,000 and (y) 10% of Consolidated EBITDA determined at the time of incurrence of Indebtedness secured by such Lien (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination, of additional Indebtedness or other obligations under this clause (ii) (including any modification, replacement, renewal or extension thereof in reliance on clause (dd) of this Section 7.01), which Liens, in each case under this Section 7.01(ii), at the election of the Lead Borrower, shall be subject to a First Lien Intercreditor Agreement, Second Lien Intercreditor Agreement or other lien subordination and intercreditor agreement, in each case, reasonably satisfactory to the Lead Borrower and the Administrative Agent;

(jj) Liens arising in the ordinary course of business of any Borrower or any other Restricted Subsidiary in favor of any supplier, vendor or wholesaler in connection with the purchase of any property; provided that if such supplier, vendor or wholesaler has filed, prior to the Closing Date or shall file, at any time after the Closing Date, any Uniform Commercial Code financing statement covering Collateral of any Borrower or any other Loan Party other than the applicable purchased property (including any all assets filings) to secure such Lien, (i) such supplier, vendor or wholesaler shall file or cause to be filed any and all amendment financing statements to limit the scope of the collateral description to such purchased property, in form and substance reasonably satisfactory to the Administrative Agent or (ii) such supplier, vendor or wholesaler shall agree to subordinate its Liens subject to subordination provisions that are reasonably acceptable to the Administrative Agent and the Lead Borrower;

(kk) Liens of bailees arising in the ordinary course of business;

(ll) Liens securing obligations (other than obligations representing Indebtedness for borrowed money) under operating, reciprocal easement or similar agreements entered into in the ordinary course of business of the Borrowers and the other Restricted Subsidiaries;

(mm) Liens securing obligations in respect of letters of credit, bank guarantees, bankers acceptance, warehouse receipts or similar obligations permitted to be incurred pursuant to Section 7.03(p) and (q) and covering (i) the property (or the documents of title in respect of such property) financed by such letters of credit, bank guarantees, bankers acceptance, warehouse receipts or similar obligations and the proceeds and products thereof or (ii) cash collateral provided to support such obligations;

(nn) Liens on goods or inventory the purchase, shipment or storage price of which is financed by a documentary letter of credit, bank guarantee or bankers' acceptance issued or created for the account of any Borrower or any other Restricted Subsidiary in the ordinary course of business; *provided* that such Lien secures only the obligations of the Borrowers or the other Restricted Subsidiaries in respect of such letter of credit, bank guarantee or banker's acceptance to the extent permitted to be incurred pursuant to Section 7.03; and

(oo) utility and similar deposits in the ordinary course of business.

The expansion of Liens by virtue of accrual of interest, the accretion of accrued value, the payment of interest or dividends in the form of additional Indebtedness, amortization of OID and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an incurrence of Liens for purposes of this Section 7.01.

For purposes of determining compliance with this Section 7.01, (x) a Lien need not be incurred solely by reference to one category of Liens described in clauses (a) through (oo) above but may be incurred under any combination of such categories (including in part under one such category and in part under any other such category) and (y) in the event that a Lien (or any portion thereof) meets the criteria of one or more of such categories of Liens described in clauses (a) through (oo) above, the Lead Borrower, in its sole discretion, may classify or may subsequently reclassify at any time such Lien (or any portion thereof) in any manner that complies with this covenant; *provided* that (a) all Liens securing any Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt or any Permitted Refinancing in respect of the foregoing shall at all times be justified in reliance only on the exception in Section 7.01(ee), (b) all Liens securing any Incremental Equivalent Debt or any Permitted Refinancing in respect thereof shall at all times be justified in reliance only on the exception in Section 7.01(hh) and (c) all Liens securing the Obligations shall at all times be justified in reliance only on the exception in Section 7.01(a).

Section 7.02 Investments. Make or hold any Investments, except:

(a) Investments in assets that are Cash Equivalents or were Cash Equivalents when made;

(b) loans, promissory notes or advances to future, present or former officers, directors, members of management, employees, or consultants of Holdings (or any direct or indirect parent thereof), any Borrower or any of the other Restricted Subsidiaries (i) for reasonable and customary business-related travel, entertainment, relocation, housing and analogous ordinary business purposes or consistent with past practices or (ii) in connection with such Person's purchase of Equity Interests of Holdings (or any direct or indirect parent thereof); provided that, to the extent such loans or advances are made in cash, the amount of such loans and advances used to acquire such Equity Interests shall be contributed or paid to Holdings in cash) or for any other purpose in an aggregate principal amount outstanding under this clause (ii) not to exceed \$10,000,000 at any time;

(c) Investments (i) by any Borrower or any other Restricted Subsidiary that is a Loan Party in any Borrower or any other Restricted Subsidiary that is a Loan Party, (ii) by any Non-Loan Party in any other Non-Loan Party, (iii) by any Non-Loan Party in any Borrower or any other Restricted Subsidiary that is a Loan Party and (iv) by any Loan Party in any Non-Loan Party; *provided* that (A) any such Investments made by a Loan Party pursuant to this clause (iv) in the form of intercompany loans shall have been pledged to the Collateral Agent for the benefit of the Secured Parties to the extent required by the Collateral Documents and the Collateral and Guarantee Requirement and (B) the aggregate amount of Investments of the Loan Parties made in Non-Loan Parties pursuant to this clause (iv) shall not at any time outstanding exceed, together with the aggregate amount of Investments by Loan Parties in Persons that are not or do not become (or in assets that are not owned by) Loan Parties outstanding on the date of determination pursuant to Section 7.02(r), the greater of (x) \$16,000,000 and (y) 20.0% of Consolidated EBITDA determined at the time of such Investment (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination;

(d) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof and other credits to suppliers, in each case, in the ordinary course of business;

(e) Investments consisting of Liens, Indebtedness, fundamental changes, Dispositions, Restricted Payments and prepayments of Indebtedness permitted under Section 7.01, Section 7.03 (other than Section 7.03(c)(ii) or (d)), Section 7.04 (other than the proviso in Section 7.04(a)(ii), (c)(ii) or (f)), Section 7.05 (other than Section 7.05(d)(ii) or (e)), Section 7.06 (other than Section 7.06(d) or (g)(iii)) and Section 7.12, respectively;

(f) Investments existing on the date hereof or made pursuant to legally binding commitments in existence or otherwise contemplated on the date hereof (i) set forth on Schedule 7.02(f), (ii) consisting of intercompany Investments outstanding on the date hereof, and (iii) any modification, replacement, renewal, reinvestment or extension of any of the foregoing; provided that (x) the amount of any Investment permitted pursuant to this Section 7.02(f) is not increased from the amount of such Investment on the Closing Date except pursuant to the terms of such Investment as of the Closing Date or as otherwise permitted by another clause of this Section 7.02 and (y) any Investment in the form of Indebtedness of any Loan Party owed to any Non-Loan Party shall be subordinated to the Obligations on subordination terms no less favorable to the Lenders than the subordination terms set forth in an Intercompany Note;

(g) Investments in Swap Contracts of the type permitted under Section 7.03;

(h) promissory notes and other non-cash consideration that is permitted to be received in connection with Dispositions permitted by Section 7.05:

(i) the purchase or other acquisition of all or substantially all of the property and assets of any Person or of assets constituting a business unit, a line of business or division of such Person or Equity Interests in a Person that, upon the consummation thereof, will be a Restricted Subsidiary (including as a result of a merger or consolidation and/or any Investment in any Subsidiary that serves to increase the equity ownership of any Borrower or any other Restricted Subsidiary therein); *provided* that with respect to each purchase or other acquisition made pursuant to this Section 7.02(i) (each, a “**Permitted Acquisition**”):

(i) the property, assets and businesses acquired in such purchase or other acquisition shall, solely to the extent required hereunder and under the other Loan Documents, constitute Collateral and the applicable Loan Party, any such newly created or acquired Subsidiary and the Subsidiaries of such created or acquired Subsidiary (in each case, solely to the extent required under the Collateral and Guarantee Requirement) shall have complied with the requirements of Section 6.11, within the times specified therein (for the avoidance of doubt, this clause (i) shall not override any provisions of the Collateral and Guarantee Requirement, subject to the limit in clause (ii) below);

(ii) such acquisition is not hostile;

(iii) immediately after giving effect to such purchase or acquisition, the Borrowers and the other Restricted Subsidiaries shall be in compliance with Section 7.07;

(iv) on the date on which the relevant transaction is consummated, immediately after giving Pro Forma Effect to any such purchase or other acquisition (including any Indebtedness to be incurred in connection therewith), (1) no Event of Default shall have occurred and be continuing and (2) the Borrowers shall be in compliance with Section 7.10(a) as of the last day of the most recently ended Test Period on or prior to the date of determination (calculated on a Pro Forma Basis); *provided*, that if the relevant transaction is a Limited Condition Transaction, the standard shall be (1) on the date the definitive agreement governing the relevant transaction is executed, immediately after giving Pro Forma Effect to any such purchase or other acquisition (including any Indebtedness to be incurred in connection therewith), (x) no Event of Default shall have occurred and be continuing and (y) the Borrowers shall be in compliance with Section 7.10(a) as of the last day of the most recently ended Test Period on or prior to the date of determination (calculated on a Pro Forma Basis) and (2) unless the relevant transaction is funded with Excluded Contributions, no Event of Default under Section 8.01(a) or Section 8.01(f) shall have occurred and be continuing after giving effect thereto.

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- (j) other Investments in an amount not to exceed the Available Amount immediately prior to the time of the making of such Investment;
 - (k) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit (or similar provisions of Law) and Article 4 customary trade arrangements with customers consistent with past practices (or similar provisions of Law);
 - (l) Investments (including debt obligations and Equity Interests) received (i) in connection with the bankruptcy, workout, recapitalization or reorganization of suppliers and customers or in settlement of delinquent obligations of, or other disputes with or judgments against, customers and suppliers arising in the ordinary course of business, (ii) upon the foreclosure with respect to any secured Investment, (iii) as a result of the settlement, compromise or resolution of litigation, arbitration or other disputes or (iv) in settlement of debts created in the ordinary course of business;
 - (m) loans and advances to Holdings (or any direct or indirect parent thereof) in lieu of, and not in excess of the amount of (after giving effect to any other loans, advances or Restricted Payments in respect thereof), Restricted Payments to the extent permitted to be made to Holdings (or such direct or indirect parent) in accordance with Section 7.06 (it being understood and agreed that each applicable provision of Section 7.06 shall be deemed utilized by the outstanding aggregate principal amount of such loans and advances made in reliance on this clause (m));
 - (n) other Investments that do not exceed in the aggregate the greater of (x) \$24,000,000 and (y) 30.0% of Consolidated EBITDA determined at the time of such Investment (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination;
 - (o) advances of payroll payments to directors, officers, employees, members of management, and consultants in the ordinary course of business;
 - (p) Investments to the extent that payment for such Investments is made solely with Qualified Equity Interests of Holdings (or any direct or indirect parent thereof);
 - (q) subject to Section 7.02(j)(ii), Investments held by a Restricted Subsidiary acquired after the Closing Date or of a Person merged into, amalgamated with or consolidated into a Borrower or another Restricted Subsidiary in accordance with Section 7.04 after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;
 - (r) Guarantees by any Borrower or any of the other Restricted Subsidiaries (i) of leases (other than Capitalized Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business and (ii) of Indebtedness to the extent such Guarantees are permitted under Section 7.03(c); provided that the aggregate amount of Guarantees by the Loan Parties in respect of Indebtedness of Non-Loan Parties pursuant to this clause (r) shall not at any time outstanding exceed, together with the aggregate amount of Investments outstanding on the date of determination pursuant to Section 7.02(c)(iv), the greater of (x) \$16,000,000 and (y) 20.0% of Consolidated EBITDA determined at the time of such Investment (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination;
 - (s) Investments made by (i) any Restricted Subsidiary that is a Non-Loan Party to the extent such Investments are financed with the proceeds received by such Restricted Subsidiary from an Investment in such Restricted Subsidiary made pursuant to Section 7.02(c)(iv), Section 7.02(i)(ii), Section 7.02(j), Section 7.02(n), Section 7.02(t), Section 7.02(u), Section 7.02(cc) and Section 7.02(ff) and (ii) any Loan Party in any Non-Loan Party consisting of contributions or other Dispositions of Equity Interests of Persons that are Non-Loan Parties; provided that, prior to such contribution or Disposition, such Equity Interests were not owned directly by a Loan Party or such Equity Interests are contributed or Disposed to a Non-Loan Party that is a wholly owned Restricted Subsidiary of a Loan Party;

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- (t) Investments in the amount of any Excluded Contribution to the extent Not Otherwise Applied;
 - (u) Investments by any Borrower or any other Restricted Subsidiary in (i) Joint Ventures and (ii) Subsidiaries that are not wholly owned, in an aggregate amount, taken together with all other Investments made pursuant to this clause (u), not to exceed the greater of (x) \$16,000,000 and (y) 20.0% of Consolidated EBITDA determined at the time of such Investment (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination;
 - (v) [Reserved];
 - (w) defined contribution pension scheme, unfunded pension fund, phantom equity, cash-settled equity-based awards and other employee benefit plan obligations and liabilities to the extent that they are permitted to remain unfunded under applicable Laws;
 - (x) Investments in any Restricted Subsidiary in connection with reorganizations and related activities related to tax planning; *provided* that, after giving effect to any such reorganization and related activities, the security interest of the Collateral Agent in the Collateral, taken as a whole, is not materially impaired or after giving effect to such Investment, the Borrowers shall otherwise be in compliance with Section 6.11;
 - (y) Investments consisting of the licensing or contribution of intellectual property or software pursuant to joint development, joint commercialization, joint marketing or other collaboration arrangements with other Persons;
 - (z) Investments consisting of, or to finance purchases and acquisitions of, inventory, supplies, materials, services or equipment or purchases of contract rights or licenses or leases of intellectual property in the ordinary course of business;
 - (aa) Investments in any Subsidiary or any Joint Venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business;
 - (bb) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business;
 - (cc) Investments in an aggregate amount that does not exceed, together with the aggregate amount of Restricted Payments made in reliance on Section 7.06(j) and prepayments, redemptions, purchases, defeasances and other payments in respect of Junior Financings made in reliance on Section 7.12(a)(iv), the greater of (i) \$16,000,000 and (ii) 20% of Consolidated EBITDA determined at the time of such Investment (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination;
 - (dd) Investments consisting of the issuance or transfer of Equity Interests of Holdings (or any direct or indirect parent) to any former, current or future director, manager, officer, employee, or consultant (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of Holdings (or any direct or indirect parent) upon the issuance of equity or equity-based rights or other equity incentive programs;
 - (ee) the Transaction and Investments made to effect the Transaction; and
 - (ff) additional Investments so long as (i) immediately after giving effect thereto, the Total Net Leverage Ratio (calculated on a Pro Forma Basis) is equal to or less than 2.25:1.00 and (ii) no Event of Default shall have occurred and be continuing.

For purposes of determining compliance with this Section 7.02, (x) an Investment need not be made solely by reference to one category of Investments described in clauses (a) through (ff) above but may be made under any combination of such categories (including in part under one such category and in part under any other such category) and (y) in the event that an Investment (or any portion thereof) meets the criteria of one or more of such categories of Investments described in clauses (a) through (ff) above, the Lead Borrower, in its sole discretion, may classify or may subsequently reclassify at any time such Investment (or any portion thereof) in any manner that complies with this covenant; *provided* that (a) all Investments made under Section 7.02(c) shall at all times be justified in reliance only on the exception in Section 7.02(c), (b) all Investments made under Section 7.02(f) shall at all times be justified in reliance only on the exception in Section 7.02(f) and (c) all Investments made under Section 7.02(t) shall at all times be justified in reliance only on the exception in Section 7.02(t).

For the avoidance of doubt, if an Investment would be permitted under any provision of this Section 7.02 (other than Section 7.02(i)) and as a Permitted Acquisition, such Investment need not satisfy the requirements otherwise applicable to Permitted Acquisitions unless such Investments are consummated in reliance on Section 7.02(i).

Any Investment that exceeds the limits of any particular clause set forth above may be allocated amongst more than one of such clauses to permit the incurrence or holding of such Investment to the extent such excess is permitted as an Investment under such other clauses.

Section 7.03 Indebtedness. Create, incur or assume any Indebtedness (including by way of issuance of any Disqualified Equity Interest), other than:

(a) Indebtedness under the Loan Documents;

(b) (i) Indebtedness existing on or pursuant to binding commitments existing on the date hereof set forth on Schedule 7.03(b) and any Permitted Refinancing thereof and (ii) intercompany Indebtedness outstanding on the date hereof (after giving effect to the Transaction) and any Permitted Refinancing thereof incurred in favor of any Borrower or any other Restricted Subsidiary; *provided* that all such Indebtedness of any Loan Party owed to any Non-Loan Party shall be subordinated to the Obligations on terms no less favorable to the Lenders than the subordination terms set forth in an Intercompany Note;

(c) (i) Guarantees by Holdings, the Borrowers and the other Restricted Subsidiaries in respect of Indebtedness or other obligations of Holdings, any Borrower or any of the other Restricted Subsidiaries otherwise permitted hereunder; *provided* that (A) no Guarantee by any Restricted Subsidiary of Indebtedness incurred pursuant to (1) Section 7.03(g) (except to the extent such Guarantee existed at the time Indebtedness was assumed or arose under such Section and was not made in contemplation of any Investment or acquisition described therein), (2) any Junior Financing or (3) any Incremental Equivalent Debt or Refinancing Equivalent Debt (or, in the case of each of the preceding clauses (1), (2) and (3), any Permitted Refinancing thereof) shall be permitted unless such Restricted Subsidiary shall have also provided a Guarantee of the Obligations substantially on the terms set forth in the Guaranty and (B) if the Indebtedness being Guaranteed is by its express terms subordinated to the Obligations, such Guarantee shall be subordinated to the Guaranty on terms, taken as a whole, at least as favorable to the Lenders, in all material respects, as those contained in the subordination provisions applicable to such Indebtedness; *provided, further*, that any Guarantee of Indebtedness by a Restricted Subsidiary incurred under Section 7.03(n) shall be subject to the proviso set forth therein and (ii) any Guarantee permitted as an Investment under Section 7.02 (other than Section 7.02(c));

(d) Indebtedness of any Borrower or any of the other Restricted Subsidiaries owing to Holdings, any Borrower or any other Restricted Subsidiary to the extent constituting an Investment permitted by Section 7.02 (or in the case of Holdings, the extension of such Indebtedness by Holdings was permitted by Section 7.13); *provided* that all such Indebtedness of any Loan Party owed to any Non-Loan Party shall be subject to an Intercompany Note;

(e) (i) (x) Attributable Indebtedness relating to any transaction, (y) other Indebtedness (including Capitalized Leases) of the Borrowers and the other Restricted Subsidiaries financing the acquisition, lease, construction, repair, replacement or improvement of property (real or personal), equipment or other fixed or capital assets, so long as such Indebtedness is incurred substantially concurrently with, or no later than two hundred and seventy (270) days after, the applicable acquisition, lease, construction, repair, replacement or improvement and (z)

Attributable Indebtedness arising out of any sale-leaseback transactions; *provided* that the aggregate principal amount of such Indebtedness at any time outstanding pursuant to this clause (e) shall not exceed the greater of (x) \$16,000,000 and (y) 20.0% of Consolidated EBITDA determined at the time of such incurrence (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination; and (ii) any Permitted Refinancing of any Indebtedness incurred under Section 7.03(e)(i):

(f) Indebtedness in respect of Swap Contracts; *provided* that such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of (i) limiting interest rate risk with respect to any Indebtedness permitted to be incurred hereunder, (ii) fixing or hedging currency exchange rate risk, or (iii) fixing or hedging commodity price risk with respect to any commodity purchases or sales, and not for purposes of speculation;

(g) (i) Indebtedness (x) of any Person that becomes a Restricted Subsidiary after the date hereof, which Indebtedness is existing at the time such Person becomes a Restricted Subsidiary and is not incurred in contemplation of such Person becoming a Restricted Subsidiary, that is non-recourse to any Borrower or any other Restricted Subsidiary (other than any Subsidiary of such Person that is a Subsidiary on the date such Person becomes a Restricted Subsidiary after the date hereof) and (y) of any Borrower or any other Restricted Subsidiary assumed in connection with any Permitted Acquisition or other Investment not prohibited under this Agreement but not incurred in contemplation of such Permitted Acquisition or Investment; *provided* that, if after giving effect to all such Indebtedness, whether existing or assumed, the aggregate outstanding principal amount of existing Indebtedness of new Restricted Subsidiaries permitted under clause (g)(i)(x) plus the aggregate outstanding principal amount of Indebtedness assumed under clause (g)(i)(y) exceeds the greater of (a) \$16,000,000 and (b) 20% of Consolidated EBITDA determined at the time of the incurrence or assumption of such Indebtedness (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination, then after giving Pro Forma Effect to such existing Indebtedness or the assumption of such Indebtedness, in each case, (A) if such Indebtedness is secured by Liens on all or a portion of the Collateral on a pari passu basis with the Liens securing the Obligations, the Total Net First Lien Leverage Ratio is less than or equal to 2.00:1.00, (B) if such Indebtedness is secured by Liens on all or a portion of the Collateral that rank junior to the Liens securing the Obligations, the Total Net Secured Leverage Ratio is less than or equal to 2.50 to 1.00 or (C) if such Indebtedness is unsecured, the Total Net Leverage Ratio is less than or equal to 2.75:1.00, in each case under subclauses (A) and (B), as of the last day of the most recently ended Test Period on or prior to the date of determination and (ii) any Permitted Refinancing of any Indebtedness permitted under this Section 7.03(g); *provided, further*, that the aggregate principal amount of any such Indebtedness of Restricted Subsidiaries that are Non-Loan Parties pursuant to this Section 7.03(g) would not, when combined with, and without duplication of, the aggregate principal amount of Indebtedness of Restricted Subsidiaries that are Non-Loan Parties pursuant to Section 7.03(n), in each case, outstanding at such time, exceed the greater of (A) \$16,000,000 and (B) 20% of Consolidated EBITDA determined at the time of incurrence of such Indebtedness (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination;

(h) (i) Refinancing Equivalent Debt and (ii) any Permitted Refinancing of the foregoing;

(i) Indebtedness representing deferred compensation or similar arrangements to current, future or former officers, directors, employees, members of management, or consultants of Holdings (or any direct or indirect parent thereof), the Borrowers and the other Restricted Subsidiaries;

(j) Indebtedness to future, present or former officers, directors, employees, members of management, and consultants, their respective estates, executors, administrators, heirs, family members, legatees, distributees, spouses, former spouses, domestic partners and former domestic partners of Holdings (or any direct or indirect parent of Holdings), any Borrower or any other Restricted Subsidiary to finance the purchase or redemption of Equity Interests of Holdings (or any direct or indirect parent thereof) permitted by Section 7.06;

(k) Indebtedness incurred by any Borrower or any of the other Restricted Subsidiaries in any acquisition consummated prior to the Closing Date, a Permitted Acquisition, any other Investment not prohibited hereunder or any Disposition, in each case to the extent constituting obligations under noncompete agreements, consulting agreements, indemnification obligations or obligations in respect of purchase price (including earn-outs) or other similar deferred purchase price or arrangements or adjustments;

(l) Indebtedness consisting of obligations of the Borrowers and the other Restricted Subsidiaries under incentive, non-compete, consulting or other similar arrangements with current, future or former officers, directors, employees, members of management, and consultants incurred by such Person in connection with the Transaction (including as a result of the cancellation of vesting of outstanding equity and equity-based awards in connection therewith), acquisitions consummated prior to the Closing Date, Permitted Acquisitions or any other Investment expressly permitted hereunder or not prohibited hereunder or Disposition of any business, assets or Subsidiary permitted hereunder;

(m) Indebtedness (i) arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided that such Indebtedness is extinguished within five (5) Business Days of its incurrence and (ii) consisting of Cash Management Obligations and other Indebtedness in respect of cash pooling arrangements, netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and other cash management and similar arrangements in the ordinary course of business and any Guarantees thereof;

(n) Indebtedness of the Borrowers and the other Restricted Subsidiaries in an aggregate principal amount at any time outstanding under this clause (n) not to exceed the greater of (x) \$32,000,000 and 40% of Consolidated EBITDA, in each case determined at the time of incurrence of such Indebtedness (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination and, in the case of any Indebtedness incurred under this Section 7.03(n), any Permitted Refinancing in respect thereof;

(o) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(p) Indebtedness incurred by any Borrower or any of the other Restricted Subsidiaries in respect of letters of credit, bank guarantees, bankers' acceptances, warehouse receipts or similar instruments issued or created in the ordinary course of business or consistent with past practice, including in respect of workers compensation, unemployment insurance and other social security legislation, health, disability or other employee benefits or property, casualty or liability insurance or other insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims or supporting the type of obligations described in Section 7.01(e), (e), or (ff) (whether or not such obligations are secured by a Lien);

(q) obligations (including in respect of letters of credit, bank guarantees, bankers' acceptances, warehouse receipts or similar instruments issued or created in the ordinary course of business or consistent with past practice) in respect of bids, tenders, trade contracts, governmental contracts and leases, statutory obligations, surety, stay, customs, bid, and appeal bonds, performance and return of money bonds, performance and completion guarantees, agreements with utilities and other obligations of a like nature (including those to secure health, safety and environmental obligations), in each case in the ordinary course of business or consistent with past practice;

(r) (i) Incremental Equivalent Debt and (ii) any Permitted Refinancing thereof;

(s) Indebtedness incurred under, and in an aggregate outstanding principal amount not exceeding the amount of obligations in respect of, any Secured Hedge Agreement and any Secured Cash Management Agreement and not incurred in violation of Section 7.03(f) or Section 7.03(m)(ii), respectively;

(t) Indebtedness incurred by a Restricted Subsidiary that is not a Guarantor which, when aggregated with the principal amount of all other Indebtedness incurred pursuant to this clause (t) and then outstanding, does not exceed the greater of (x) \$16,000,000 and (y) 20% of Consolidated EBITDA, in each case determined at the time of incurrence of such Indebtedness (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination;

(u) [reserved];

(v) Indebtedness of any Restricted Subsidiary supported by a Letter of Credit in a principal amount not in excess of the stated amount of such Letter of Credit;

(w) unsecured Indebtedness in respect of obligations of any Borrower or any other Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; *provided* that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money;

(x) to the extent constituting Indebtedness, (i) Guarantees in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of Holdings and its Restricted Subsidiaries and (ii) obligations of any Borrower or any other Restricted Subsidiary pursuant to one or more agreements, documents, invoices and instruments related to the purchase of goods which such obligations are subject to Liens permitted by Section 7.01(j):

(y) (i) Subordinated Indebtedness in an aggregate outstanding principal amount not at any time exceeding \$20,000,000 so long as the Borrowers are in compliance with Section 7.10 as of the last day of the most recently ended Test Period on or prior to the date of determination (calculated on a Pro Forma Basis) (plus payments in-kind or capitalization of interest or other amounts payable with respect thereto) and (ii) any Permitted Refinancing in respect of any of the foregoing; and

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

For purposes of determining compliance with this Section 7.03, in the event that an item of Indebtedness (or any portion thereof) at any time, whether at the time of incurrence or upon the application of all or a portion of the proceeds thereof or subsequently, meets the criteria of more than one of the categories of Indebtedness described above in Section 7.03(a) through (z), the Lead Borrower, in its sole discretion, may classify or subsequently reclassify (or later divide, classify or reclassify) such item of Indebtedness (or any portion thereof) in any one or more of the types of Indebtedness described in Section 7.03(a) through (z) and shall only be required to include the amount and type of such Indebtedness in such of the above clauses as determined by the Lead Borrower at such time; provided that (a) all Indebtedness outstanding under the Loan Documents shall at all times be deemed to be outstanding in reliance only on the exception in Section 7.03(a), (b) all Indebtedness described on Schedule 7.03(b) and any Permitted Refinancing in respect thereof shall at all times be deemed to be outstanding in reliance only on the exception in Section 7.03(b)(i), (c) all Indebtedness owing to Holdings or any of its Subsidiaries shall be deemed to be outstanding in reliance only on one or more exceptions in Section 7.03(b)(ii) or (d), (d) Refinancing Equivalent Debt and any Permitted Refinancing in respect thereof will at all times be deemed to be outstanding in reliance only on the exception in Section 7.03(h) and (e) Incremental Equivalent Debt and any Permitted Refinancing in respect thereof shall at all times be deemed to be outstanding in reliance only on the exception in Section 7.03(r).

The accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness, the payment of dividends on Disqualified Equity Interests in the form of additional shares of Disqualified Equity Interests, accretion or amortization of OID or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.03. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a consolidated balance sheet of Holdings dated such date prepared in accordance with GAAP.

Notwithstanding the above, if any Indebtedness is incurred as Permitted Refinancing Indebtedness originally incurred pursuant to this Section 7.03, and such Permitted Refinancing Indebtedness would cause any applicable Dollar-denominated, Consolidated EBITDA or financial ratio restriction contained in this Section 7.03 to be exceeded if calculated on the date of such Permitted Refinancing, such Dollar-denominated, Consolidated EBITDA or financial ratio restriction, as applicable, shall be deemed not to have been exceeded so long as the principal amount of such Permitted Refinancing Indebtedness is permitted to be incurred pursuant to the definition of “Permitted Refinancing.”

For the avoidance of doubt, if any Indebtedness is incurred under a basket set forth above that is subject to a cap based on a dollar amount and/or a percentage of Consolidated EBITDA and is subsequently subject to a Permitted Refinancing, then such Indebtedness shall continue to be deemed to utilize such basket in an amount equal to the outstanding principal amount of such Indebtedness immediately prior to such Permitted Refinancing.

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

(a) any Restricted Subsidiary may merge, amalgamate or consolidate with (i) any Borrower (including a merger, the purpose of which is to reorganize such Borrower into a new jurisdiction); *provided* that (x) such Borrower shall be the continuing or surviving Person or the continuing or surviving Person shall expressly assume the obligations of such Borrower under the Loan Documents in a manner reasonably acceptable to the Administrative Agent and (y) such merger, amalgamation or consolidation does not result in such Borrower ceasing to be incorporated or organized under the Laws of Australia or any political subdivision thereof or the United States, any state thereof or the District of Columbia or (ii) any one or more other Restricted Subsidiaries; *provided* that when any Non-Loan Party is merging or amalgamating with a Loan Party, a Loan Party shall be the continuing or surviving Person or, to the extent constituting an Investment, such Investment must be permitted by Section 7.02 (other than Section 7.02(e));

(b) (i) any Non-Loan Party may merge, amalgamate or consolidate with or into any other Non-Loan Party, (ii) any Restricted Subsidiary may merge, amalgamate or consolidate with or into any other Restricted Subsidiary that is a Loan Party, (iii) any merger the sole purpose of which is to reincorporate or reorganize any Non-Loan Party in another jurisdiction shall be permitted, subject to compliance with the requirements of Section 6.11, (iv) any Restricted Subsidiary may liquidate or dissolve or change its legal form if the Lead Borrower determines in good faith that such action is in the best interests of the Borrowers and the other Restricted Subsidiaries and is not materially disadvantageous to the Lenders and (v) any Restricted Subsidiary may merge, amalgamate or consolidate with any other Person in order to effect a Permitted Acquisition or other Investment permitted by Section 7.02, *provided* that the surviving entity shall be subject to the requirements of Section 6.11 (to the extent applicable); *provided further* that (x) if any of the transactions contemplated in this clause (b) involve Holdings, the provisions of Section 7.04(e) shall be satisfied and (y) if any of the transactions contemplated in this clause (b) involve any Borrower, the provisions of Section 7.04(d) applicable to such Borrower shall be satisfied;

(c) any Restricted Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to any Borrower or any other Restricted Subsidiary; *provided* that if the transferor in such a transaction is a Loan Party, then (i) the transferee must be a Loan Party or (ii) such Disposition shall be deemed to be an Investment and such Investment must be a permitted Investment in accordance with Section 7.02 (other than Section 7.02(e)) or such Disposition is permitted by Section 7.05 (other than Section 7.05(e));

(d) so long as no Event of Default exists or would result therefrom, any Borrower may (i) merge, amalgamate or consolidate with any other Person; *provided* that (x) such Borrower shall be the continuing or surviving corporation or the continuing or surviving Person shall expressly assume the obligations of such Borrower under the Loan Documents in a manner reasonably acceptable to the Administrative Agent (including with respect to the satisfaction of customary PATRIOT Act and other Sanctions Laws and Regulations requirements) (and, in the case of any merger, amalgamation or consolidation with Holdings, the provisions of Section 7.04(e) shall be satisfied), and (y) such merger, amalgamation or consolidation does not result in such Borrower ceasing to be incorporated or organized or existing under the laws of the United States, any state thereof, the District of Columbia or any territory thereof or Australia or any political subdivision thereof, or (ii) change its legal form if such Borrower determines that such action is in its best interests and makes such change in a manner reasonably acceptable to the Administrative Agent (including with respect to the continued perfection of Liens and satisfaction of customary PATRIOT Act and other Sanctions Laws and Regulations requirements);

(e) so long as no Event of Default exists or would result therefrom, Holdings may (i) merge, amalgamate or consolidate with any other Person; *provided* that (except in the case of a transaction involving any Borrower, in which case, after giving effect thereto, such Borrower shall be the surviving Person and Holdings or a direct or indirect parent thereof incorporated or organized under the Laws of Australia or any political subdivision thereof, the United States, any state thereof or the District of Columbia shall remain as the parent company of such Borrower) Holdings shall be the continuing or surviving Person or the continuing or surviving Person shall expressly assume the obligations of Holdings under the Loan Documents in a manner reasonably acceptable to the Administrative Agent or (ii) change its legal form if the Lead Borrower determines that such action is in its best interests and make such change in a manner reasonably acceptable to the Administrative Agent (including with respect to the continued perfection of Liens and satisfaction of customary PATRIOT Act requirements and other Sanctions Laws and Regulations);

(f) any Restricted Subsidiary may merge, amalgamate or consolidate with any other Person in order to effect an Investment permitted pursuant to Section 7.02 (other than Section 7.02(e));

(g) the Transaction may be consummated and Excelerate, L.P., New Excelerate GP, Limited, P&P Holdings GP, Limited, P&P Holdings, LP and CK Holdings, L.P. may liquidate or dissolve after the Closing Date in connection with the Closing Date IPO; and

(h) any merger, dissolution, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 7.05 (other than Section 7.05(c)), shall be permitted.

Section 7.05 Dispositions. Make any Disposition, except:

(a) Dispositions of obsolete, damaged, worn out, used or surplus property, whether now owned or hereafter acquired, in the ordinary course of business and Dispositions of property no longer used or useful in the conduct of the business of the Borrowers and the other Restricted Subsidiaries;

(b) Dispositions of (i) inventory, (ii) equipment and goods held for sale in the ordinary course of business and (iii) immaterial assets (considered in the aggregate) in the ordinary course of business;

(c) (i) any exchange or swap of assets, or lease, assignment or sublease of any real property or personal property for like property for use in a business not in contravention with Section 7.07 and (ii) Dispositions of property to the extent that (x) such property is exchanged for credit against the purchase price of similar replacement property or (y) the proceeds of such Disposition are promptly applied to the purchase price of such replacement property;

(d) Dispositions of property among Holdings, the Borrowers and the other Restricted Subsidiaries; *provided* that if the transferor of such property is a Loan Party (i) the transferee thereof must be a Loan Party, (ii) such Disposition shall be deemed to be an Investment and such Investment arising from such Disposition must be a permitted Investment in accordance with Section 7.02 (other than Section 7.02(e)) or (iii) the consideration paid in connection therewith shall be cash or Cash Equivalents paid contemporaneous with the consummation of the transaction and the aggregate fair market value (as determined in good faith by the Borrower) of the property sold, leased, licensed, transferred or otherwise disposed by Loan Parties to Non-Loan Parties in reliance of this clause (d)(iii) in any fiscal year shall not exceed \$5,000,000 (plus any unused amount permitted by this clause (d)(iii) for any fiscal year that may be carried forward and utilized in the immediately succeeding fiscal year);

(e) Dispositions permitted by Section 7.02 (other than Section 7.02(e)), Section 7.04 (other than Section 7.04(c) or (h)), Section 7.06 (other than Section 7.06(d)) and Section 7.12 and Liens permitted by Section 7.01 (other than Section 7.01(m)(ii));

(f) Dispositions with respect to property built or acquired by Holdings, any Borrower or any other Restricted Subsidiary after the Closing Date, including pursuant to sale-leaseback transactions; *provided* that the Net Cash Proceeds thereof are applied in accordance with Section 2.05(b)(ii);

(g) Dispositions of (i) Cash Equivalents and (ii) other current assets that were Cash Equivalents when the original Investment in such assets was made and which thereafter fail to satisfy the definition of Cash Equivalents;

(h) leases, subleases, licenses or sublicenses (including non-exclusive licenses or sublicenses of intellectual property or software, including the provision of software under an open source license), in each case in the ordinary course of business and which do not materially interfere with the business of the Borrowers and the other Restricted Subsidiaries, taken as a whole;

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- (i) transfers of property subject to Casualty Events;
 - (j) Dispositions of property not otherwise permitted under this Section 7.05; *provided* that (i) with respect to any Disposition pursuant to this clause (j) for a purchase price in excess of \$10,000,000, any Borrower or any of the other Restricted Subsidiaries shall receive not less than 75% of such consideration in the form of cash or Cash Equivalents (in each case, free and clear of all Liens, other than Liens permitted by Section 7.01); *provided, however,* that (A) any liabilities (as shown on such Borrower's or such Restricted Subsidiary's most recent balance sheet or in the footnotes thereto) of such Borrower or such Restricted Subsidiary that (1) are assumed by the transferee with respect to the applicable Disposition, (2) for which the Borrowers and all of the other Restricted Subsidiaries shall have been validly released by all applicable creditors in writing or (3) are otherwise cancelled or terminated in connection with the transaction with such transferee (other than intercompany debt owed to the Borrowers or the other Restricted Subsidiaries), (B) any securities, notes or other obligations or assets received by such Borrower or such Restricted Subsidiary from such transferee that are converted by such Borrower or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within one hundred and eighty (180) days following the closing of the applicable Disposition, (C) any Designated Non-Cash Consideration received in respect of such Disposition having an aggregate fair market value as determined by the Lead Borrower in good faith, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (C) that is at that time outstanding, not in excess of \$10,000,000, with the fair market value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value and (D) consideration consisting of Indebtedness of any Loan Party (other than Subordinated Indebtedness, unsecured Indebtedness or secured Indebtedness the Liens of which are junior in priority to the Liens securing the Obligations) that is contributed to or otherwise purchased by such Loan Party after the Closing Date by or from Persons who are not Restricted Subsidiaries and which is immediately cancelled and extinguished, shall be deemed to be cash;
 - (k) Dispositions of Investments in Joint Ventures or any Subsidiary that is not wholly owned to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture or similar parties set forth in joint venture arrangements and/or similar binding arrangements;
 - (l) Dispositions of accounts receivable in connection with the collection, compromise or settlement thereof or in bankruptcy or similar proceedings;
 - (m) any issuance or sale of Equity Interests in, or sale of Indebtedness or other securities of, an Unrestricted Subsidiary;
 - (n) to the extent allowable under Section 1031 of the Code (or comparable provision of Law of any foreign jurisdiction and, in each case, any successor provision), any exchange of like property for use in any business conducted by any Borrower or any of the other Restricted Subsidiaries that is not in contravention of Section 7.07;
 - (o) the unwinding of any Cash Management Obligations or Swap Contract;
 - (p) sales or other dispositions by any Borrower or any other Restricted Subsidiary of assets in connection with the closing or sale of an office in the ordinary course of business of the Borrowers and the other Restricted Subsidiaries, which consist of leasehold interests in the premises of such office, the equipment and fixtures located at such premises and the books and records relating exclusively and directly to the operations of such office; provided that as to each and all such sales and closings, (A) no Event of Default shall result therefrom and (B) such sale shall be on commercially reasonable prices and term in a bona fide arm's length transaction;
 - (q) the lapse or abandonment (including failure to maintain) in the ordinary course of business of any registrations or applications for registration of any (i) intellectual property rights that are not used, or cease to be used, in the business of the Borrowers or any other Restricted Subsidiaries, or (ii) immaterial intellectual property rights that in the reasonable good faith judgment of the Lead Borrower are no longer economically practicable or commercially desirable to maintain or use in the business of the Borrowers and the other Restricted Subsidiaries (taken as a whole);

(r) any Disposition (i) arising from foreclosure, casualty, condemnation or any similar action or transfers by reason of eminent domain with respect to any property or other asset of Holdings, any Borrower or any of the other Restricted Subsidiaries or (ii) by reason of the exercise of termination rights under any lease, sublease, license, sublicense, concession or other agreement;

(s) any surrender or waiver of contractual rights or the settlement, release, recovery on or surrender of contractual rights or other claims of any kind;

(t) the discount of accounts receivable or notes receivable in the ordinary course of business or the conversion of accounts receivable to notes receivable or Investments permitted under this Agreement, in each case in connection with the collection or compromise thereof;

(u) any Disposition of assets of Holdings, any Borrower or any other Restricted Subsidiary or sale or issuance of Equity Interests of any Restricted Subsidiary, which assets or Equity Interests so Disposed have an aggregate fair market value (as determined in good faith by the Lead Borrower) of less than \$10,000,000 in the aggregate for any fiscal year;

(v) any grant in the ordinary course of business of any non-exclusive license of patents, trademarks, software, know-how, copyrights, or any other intellectual property rights, including, but not limited to, grants of franchises or licenses, franchise or license master agreements and/or area development agreements;

(w) Dispositions contemplated on the Closing Date and set forth on Schedule 7.05(w);

(x) Dispositions required to be made to comply with the order of any Governmental Authority or applicable Laws;

(y) the sale of motor vehicles and information technology equipment purchased at the end of an operating lease and resold thereafter;

(z) Dispositions of real property and related assets in the ordinary course of business in connection with relocation activities for directors, officers, members of management, employees, or consultants;

(aa) [reserved];

(bb) (i) samples, including time-limited evaluation software, provided to customers or prospective customers and (ii) de minimis amounts of equipment provided to employees; and

(cc) any Borrower and any other Restricted Subsidiary may (i) convert any intercompany Indebtedness owing by any Borrower or any other Restricted Subsidiary to Equity Interests; (ii) settle, discount, write off, forgive or cancel any intercompany Indebtedness or other obligation owing by any Borrower or any other Restricted Subsidiary and (iii) settle, discount, write off, forgive or cancel any Indebtedness owing by any present or former consultants, directors, officers, or employees of Holdings, any Borrower or any other Restricted Subsidiary or any of their successors or assigns;

provided that any Disposition of any property pursuant to Sections 7.05(b)(i), (c), (f) and (j), shall be for no less than the fair market value of such property at the time of such Disposition as determined by the Lead Borrower in good faith. To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 to any Person other than a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and the Administrative Agent and the Collateral Agent, as applicable, shall be authorized to take any actions deemed appropriate in order to effect the foregoing.

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

(a) each Restricted Subsidiary may make Restricted Payments to the Borrowers and to the other Restricted Subsidiaries (and, in the case of a Restricted Payment by a non-wholly owned Restricted Subsidiary, to any Borrower and any other Restricted Subsidiaries and to each other owner of Equity Interests of such Restricted Subsidiary based on their relative ownership interests of the relevant class of Equity Interests);

(b) each Borrower and each of the other Restricted Subsidiaries may declare and make dividend payments or other distributions payable solely in the Equity Interests (other than Disqualified Equity Interests not otherwise permitted by Section 7.03) of such Person;

(c) so long as immediately after giving effect to such Restricted Payment, the Total Net Leverage Ratio (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination is less than or equal to 2.50:1.00, the Borrowers and the other Restricted Subsidiaries may make Restricted Payments in an amount not to exceed the Available Amount immediately prior to the time of the making of such Restricted Payment; *provided* that no Event of Default shall have occurred and be continuing or would result therefrom;

(d) to the extent constituting Restricted Payments, the Borrowers and the other Restricted Subsidiaries may enter into and consummate transactions (and the Restricted Subsidiaries may make Restricted Payments to Holdings to permit it to consummate transactions of the type) expressly permitted by any provision of Section 7.02 (other than Section 7.02(e) and 7.02(m)), Section 7.03, Section 7.04, Section 7.05 (other than Section 7.05(e)) or Section 7.08 (other than Section 7.08(i) and 7.08(m)(ii));

(e) redemptions, repurchases, retirements or other acquisitions of Equity Interests in Holdings (or any direct or indirect parent thereof), any Borrower or any of the other Restricted Subsidiaries deemed to occur upon exercise of stock options or warrants or similar rights if such Equity Interests represent a portion of the exercise price of such options or warrants or similar rights;

(f) the Borrowers and the other Restricted Subsidiaries may pay (or make Restricted Payments to allow Holdings or any direct or indirect parent thereof to pay, so long as in the case of any payment in respect of Equity Interests of any direct or indirect parent of Holdings, the amount of such Restricted Payment is directly attributable to the Equity Interests of Holdings owned directly or indirectly by such parent) for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of Holdings (or such direct or indirect parent thereof) held by any future, present or former officers, directors, employees, members of management, or consultants (or their respective estates, executors, administrators, heirs, family members, legatees, distributees, spouses, former spouses, domestic partners and former domestic partners) of Holdings (or any direct or indirect parent of Holdings) or any of its Restricted Subsidiaries in connection with the death, disability, retirement or termination of employment or service of any such Person (or a breach of any non-compete or other restrictive covenant or confidentiality obligations of any such Person at any time after such Person's disability, retirement or termination of employment or service) in an aggregate amount after the Closing Date, together with the aggregate amount of loans and advances to Holdings made pursuant to Section 7.02(m) in lieu of Restricted Payments permitted by this clause (f), not to exceed the greater of (x) \$8,000,000 and (y) 10% of Consolidated EBITDA (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination in the aggregate in any calendar year (it being understood that any unused amounts in any calendar year may be carried over to the immediately succeeding calendar year; *provided* that such amount in any calendar year may be increased by an amount not to exceed (y) the cash proceeds received by Holdings, any Borrower or any of the other Restricted Subsidiaries from the sale of Equity Interests (other than Disqualified Equity Interests, Excluded Contributions or Specified Equity Contributions and so long as such proceeds have not been included in the calculation of the Available Amount) of Holdings or any direct or indirect parent of Holdings (to the extent contributed to any Borrower) to any future, present or former employee, officer, director, member of management, or consultant (or the estates, executors, administrators, heirs, family members, legatees, distributees, spouse, former spouse, domestic partner or former domestic partner of any of the foregoing) of Holdings and its Subsidiaries or any direct or indirect parent of Holdings that occurs after the Closing Date, plus (z) the cash proceeds of key man life insurance policies received by Holdings, the Borrowers or the other Restricted Subsidiaries after the Closing Date; *provided, further,* that (1) Holdings may elect to apply all or any portion of the aggregate increase contemplated by clauses (y) and (z) above in any calendar year and (2) cancellation of Indebtedness owing to Holdings, any Borrower or any other Restricted Subsidiary from any future, present or former employee, officer, director, member of management, or consultant (or the estates, executors,

administrators, heirs, family members, legatees, distributees, spouse, former spouse, domestic partner or former domestic partner of any of the foregoing) of Holdings or the direct or indirect parent thereof or any Subsidiary thereof in connection with a repurchase of Equity Interests of Holdings or any direct or indirect parent thereof will not be deemed to constitute a Restricted Payment for purposes of this Section 7.06 or any other provision of this Agreement;

(g) the Borrowers and the other Restricted Subsidiaries may make Restricted Payments to Holdings or to any direct or indirect parent of Holdings:

(i) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) operating costs and expenses of such Persons incurred in the ordinary course of business and other corporate overhead costs and expenses (including administrative, legal, accounting and similar expenses provided by third parties), which are reasonable and customary and incurred in the ordinary course of business, attributable to the ownership or operations of Holdings or its direct or indirect parents;

(ii) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) franchise taxes and other fees, taxes and expenses required to maintain its (or any of such direct or indirect parent thereof) corporate or legal existence;

(iii) to finance any Investment permitted to be made pursuant to Section 7.02; *provided* that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment and (B) such Persons shall, promptly following the closing thereof, cause (1) all property acquired (whether assets or Equity Interests) to be contributed to a Borrower or another Restricted Subsidiary or (2) the merger, amalgamation, consolidation or sale of all or substantially all assets (to the extent permitted in Section 7.04) of the Person formed in order to consummate such Investment or acquired pursuant to such Investment, as applicable, into or to, as applicable, a Borrower or another Restricted Subsidiary, in each case, in accordance with the requirements of Section 6.11 and Section 7.02;

(iv) the proceeds of which shall be used to pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) costs, fees and expenses related to any equity or debt offering permitted by this Agreement (whether or not successful);

(v) the proceeds of which (A) shall be used to pay customary salary, bonus, severance, management fees and other benefits payable to, and indemnities provided on behalf of, current or former directors, officers, employees, members of management, or consultants of such Persons and any payroll, social security or similar taxes in connection therewith to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Borrowers and the other Restricted Subsidiaries or (B) shall be used to make payments permitted under Section 7.08(e), (g), (h), (j), (k), (l), (m), (n), (o), (p), (r), (w) and (z) (but only to the extent such payments have not been and are not expected to be made by a Borrower or another Restricted Subsidiary);

(vi) the proceeds of which will be used to make payments due or expected to be due to cover social security, Medicare, withholding and other taxes payable in connection with any management equity plan or equity-based plan or any other management or employee benefit plan or agreement of such Persons or to make any other payment that would, if made by any Borrower or any other Restricted Subsidiary, be permitted by this Agreement;

(vii) the proceeds of which shall be used to pay cash, in lieu of issuing fractional shares, in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests of such Persons; and

(viii) if applicable at any time after the Closing Date (and without duplication of Restricted Payments made in reliance on Section 7.06(g)(ii)(B)), for any taxable period in which the Borrowers and/or any of the other Subsidiaries are a member of a consolidated, combined or similar income tax group of which a direct or indirect parent of the Borrowers is the common parent (a “**Tax Group**”), to pay federal, foreign, state and local income or similar taxes of such Tax Group (or any other direct or indirect beneficial owners thereof) that are attributable to the taxable income of Holdings, the Borrowers and/or any Subsidiaries thereof;

(h) the Borrowers or any of the other Restricted Subsidiaries may pay cash (or make Restricted Payments to Holdings the proceeds of which shall be used to enable it or its direct or indirect parent to pay cash) in lieu of fractional Equity Interests in connection with any dividend, split or combination thereof, any Permitted Acquisition or any exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests;

(i) redemptions, repurchases, retirements or other acquisitions of Equity Interests (i) deemed to occur on the exercise of options by the delivery of Equity Interests in satisfaction of the exercise price of such options or (ii) in consideration of withholding or similar taxes payable by any future, present or former officer, employee, director, member of management, or consultant (or their respective estates, executors, administrators, heirs, family members, legatees, distributees, spouses, former spouses, domestic partners and former domestic partners), including deemed repurchases in connection with the exercise of stock options;

(j) in addition to the foregoing Restricted Payments and so long as no Event of Default shall have occurred and be continuing or would result therefrom on the date of declaration of such Restricted Payment and no Event of Default under Section 8.01(a) or Section 8.01(f) has occurred and is continuing on the date of such Restricted Payment, the Borrowers and the other Restricted Subsidiaries may make additional Restricted Payments (the proceeds of which may be utilized by Holdings (or any direct or indirect parent thereof) to make additional Restricted Payments) in an aggregate amount not to exceed the greater of (x) \$16,000,000 and (y) 20% of Consolidated EBITDA (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination;

(k) the declaration and payment of dividends on any Borrower's common stock (or the payment of dividends to Holdings or any other direct or indirect parent of any Borrower to fund the payment by Holdings or any other direct or indirect parent of any Borrower of dividends on such entity's common stock) or the repurchase, redemption, defeasance or other acquisition or retirement for value of Equity Interests of any Borrower, Holdings or any other direct or indirect parent of any Borrower of up to an amount per annum equal to the sum of (x) 6% of the net cash proceeds of the Closing Date IPO or otherwise received by or contributed to the Borrowers and the other Restricted Subsidiaries by Holdings or any other direct or indirect parent of the Borrowers from any IPO *plus* (y) an aggregate amount not to exceed 7% of Market Capitalization at the time of determination;

(l) Restricted Payments that are made with Excluded Contributions to the extent Not Otherwise Applied;

(m) (i) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("**Retired Capital Stock**") of Holdings or any direct or indirect parent of Holdings in exchange for, or out of the proceeds of, the substantially concurrent sale of, Equity Interests of Holdings or any direct or indirect parent of Holdings or contributions to the equity capital of Holdings (other than any Disqualified Equity Interests or any Equity Interests sold to a Subsidiary of Holdings) (collectively, including any such contributions, "**Refunding Capital Stock**") and (ii) the declaration and payment of dividends on the Retired Capital Stock out of the proceeds of the substantially concurrent sale (other than to a Subsidiary of Holdings) of Refunding Capital Stock;

(n) Restricted Payments made (i) on the Closing Date to consummate the Transaction and pay fees and expenses related thereto or owed to Affiliates, (ii) [reserved] and (iii) in the form of reimbursements after the Closing Date of payments made by Holdings or any direct or indirect parent thereof in connection with the consummation of the Transaction;

(o) the making of any Restricted Payments for purposes of making AHYDO Catch-Up Payments relating to Indebtedness of Holdings (or, so long as no Event of Default under Section 8.01(a) or Section 8.01(f) has occurred and is continuing, any direct or indirect parent thereof), the Borrowers and the other Restricted Subsidiaries;

(p) the making of any Restricted Payment within 60 days after the date of declaration thereof, if at the date of such declaration such Restricted Payment would have complied with another provision of this Section 7.06; *provided* that the making of such Restricted Payment will reduce capacity for Restricted Payments pursuant to such other provision when so made; and

(q) additional Restricted Payments so long as (i) immediately after giving effect to such Restricted Payment, the Total Net Leverage Ratio (calculated on a Pro Forma Basis) is equal to or less than 2.25:1.00 and (ii) no Event of Default shall have occurred and be continuing on the date of such Restricted Payment.

Section 7.07 Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by the Borrowers or any of the other Restricted Subsidiaries on the Closing Date or any business or any other activities that are reasonably similar, ancillary, incidental, complementary or related to, or a reasonable extension, development or expansion of, the businesses conducted or proposed to be conducted by the Borrowers or any of the other Restricted Subsidiaries on the Closing Date.

Section 7.08 Transactions with Affiliates. Enter into or permit to exist any transaction of any kind with any Affiliate of any Borrower, whether or not in the ordinary course of business, involving aggregate consideration in excess of \$2,000,000, other than:

(a) transactions between or among Holdings, the Borrowers and/or one or more of the other Restricted Subsidiaries or any entity that becomes a Restricted Subsidiary as a result of such transaction;

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

(c) (i) the Transaction and the payment of fees and expenses (including the Transaction Expenses) related to the Transaction and (ii) the existence of, or the performance by Holdings, any Borrower or any other Restricted Subsidiary of its obligations under the terms of, any stockholders or shareholders agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Closing Date, and any transaction, agreement or arrangement described in this Agreement and, in each case, any amendment thereto or similar transactions, agreements or arrangements which it may enter into thereafter; *provided, however*, that the existence of, or the performance by Holdings, any Borrower or any other Restricted Subsidiary of its obligations under, any future amendment to any such existing transaction, agreement or arrangement or under any similar transaction, agreement or arrangement entered into after the Closing Date shall only be permitted by this clause (ii) to the extent that the terms of any such amended existing transaction, agreement or arrangement, taken as a whole, or new transaction, agreement or arrangement are not otherwise more disadvantageous to the Lenders in any material respect than the original transaction, agreement or arrangement as in effect on the Closing Date;

(d) [reserved];

(e) employment and severance arrangements between Holdings, the Borrowers and the other Restricted Subsidiaries and their respective directors, officers, employees, members of management, or consultants in the ordinary course of business and transactions pursuant to equity or equity-based plans and employee benefit plans and arrangements;

(f) the licensing of patents, trademarks, software, know-how, copyrights or other intellectual property rights in the ordinary course of business to permit the commercial exploitation of intellectual property rights;

(g) the payment of customary fees and reasonable out-of-pocket costs to, and indemnities provided on behalf of, future, present or former directors, officers, employees, members of management, and consultants of Holdings, the Borrowers and the other Restricted Subsidiaries or any direct or indirect parent of Holdings in the ordinary course of business to the extent attributable to the ownership or operation of the Borrowers and the other Restricted Subsidiaries;

(h) any agreement, instrument or arrangement as in effect as of the Closing Date and set forth on Schedule 7.08, or any amendment thereto (so long as any such amendment, taken as a whole, is not more disadvantageous to the Lenders in any material respect as compared to the applicable agreement as in effect on the Closing Date);

(i) Restricted Payments permitted under Section 7.06;

(j) customary payments by any Borrower and any of the other Restricted Subsidiaries to Summit Partners or any Co-Investor made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities (including in connection with acquisitions or divestitures), which payments are approved by a majority of the disinterested members of the board of managers (or equivalent governing body) of Holdings in good faith;

(k) transactions in which any Borrower or any of the other Restricted Subsidiaries, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to such Borrower or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (b) of this Section 7.08;

(l) the issuance or transfer of Equity Interests or equity-based interests (other than Disqualified Equity Interests) of Holdings or any of its Subsidiaries to any Permitted Holder or to any former, current or future director, officer, employee, member of management, or consultant (or their respective estates, executors, administrators, heirs, family members, legatees, distributees, spouses, former spouses, domestic partners and former domestic partners) of any Borrower, any other Subsidiary or any direct or indirect parent of any of the foregoing thereof to the extent otherwise permitted by this Agreement and to the extent such issuance or transfer would not give rise to a Change of Control;

(m) (i) investments by the Permitted Holders in securities of Holdings, any Borrower or any of the other Restricted Subsidiaries (and payment of reasonable out-of-pocket expenses incurred by the Permitted Holders in connection therewith) so long as (A) the investment is being offered generally to other investors on the same or more favorable terms and (B) the investment constitutes less than 5.0% of the proposed or outstanding issue amount of such class of securities (provided, that any investments in debt securities by any Affiliated Debt Fund shall not be subject to the limitation in this clause (B)), and (ii) to the extent permitted under Section 7.06, payments to the Permitted Holders in respect of securities or loans of any Borrower or any of the other Restricted Subsidiaries contemplated in the foregoing subclause (i) or that were acquired from Persons other than the Borrowers and the other Restricted Subsidiaries, in each case, in accordance with the terms of such securities or loans;

(n) payments to or from, and transactions with, Joint Ventures (to the extent any such Joint Venture is only an Affiliate as a result of Investments by the Borrowers and the other Restricted Subsidiaries in such Joint Venture), non-wholly owned Subsidiaries and Unrestricted Subsidiaries in the ordinary course of business, in each case to the extent otherwise permitted under Section 7.02;

(o) the payment of reasonable out-of-pocket costs and expenses relating to registration rights and indemnities provided to equity holders of Holdings or any direct or indirect parent thereof;

(p) payments or loans (or cancellation of loans) or advances to current or former employees, officers, directors, members of management, or consultants (or the estates, executors, administrators, heirs, family members, legatees, distributees, spouse, former spouse, domestic partner or former domestic partner or any of the foregoing) of Holdings, any direct or indirect parent companies of Holdings or any of its Restricted Subsidiaries and employment agreements, consulting or other service arrangements, severance arrangements, equity or equity-based plans and other similar arrangements with such employees, officers, directors, members of management, or consultants (or the estates, executors, administrators, heirs, family members, legatees, distributees, spouse, former spouse, domestic partner or former domestic partner of any of the foregoing);

(q) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement, which are fair to the Borrowers and the other Restricted Subsidiaries, in the reasonable determination of the board of directors (or equivalent governing body) or the senior management of the Lead Borrower, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

(r) the entering into of any tax sharing agreement or arrangement to the extent payments under such agreement or arrangement would otherwise be permitted under Section 7.06;

(s) any contribution to the capital of Holdings, any Borrower or any other Restricted Subsidiary;

(t) transactions permitted under Section 7.04 and/or Section 7.05 solely for the purpose of (a) reorganizing to facilitate any initial public offering of securities of Holdings or any direct or indirect parent thereof, (b) forming a holding company, or (c) reincorporating Holdings or any Borrower in a new jurisdiction;

(u) transactions between Holdings, any Borrower or any other Restricted Subsidiary and any Person, a director of which is also a director of Holdings or any direct or indirect parent of Holdings; *provided, however,* that such director abstains from voting as a director of Holdings or such direct or indirect parent, as the case may be, on any matter involving such other Person;

(v) the formation and maintenance of any consolidated group or subgroup for tax, accounting or cash pooling or management purposes in the ordinary course of business;

(w) the issuance of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity and equity-based plans or similar employee benefit plans approved by the board of directors (or equivalent governing body) of Holdings, any Borrower, any other Restricted Subsidiary or any direct or indirect parent of Holdings, as appropriate, in good faith;

(x) investments by the Permitted Holders in debt securities of Holdings, any Borrower or any of the other Restricted Subsidiaries (and payment of reasonable out-of-pocket expenses incurred by the Permitted Holders in connection therewith) so long as, when such debt securities were initially issued, non-Affiliates were generally being offered the opportunity to invest in such debt securities on terms no less favorable than the terms offered to the Permitted Holders;

(y) transactions undertaken in good faith (as certified by a Responsible Officer of the Lead Borrower) for the purpose of improving the consolidated tax efficiency of Holdings and its Restricted Subsidiaries and not for the purpose of circumventing any covenant set forth in this Agreement; and

(z) the payment of fees and expenses under consulting and similar agreements (including any Management Agreement) with Summit Partners, and any other Co-Investor or their respective affiliates (plus any management, monitoring, consulting, advisory and other fees (including transaction and termination fees), indemnities and expenses); *provided* that any annual management and monitoring fees payable under this clause (z) may accrue but may not be paid during the continuance of an Event of Default under Section 8.01(a) or Section 8.01(f) and shall be payable when the applicable Event of Default ceases to exist or is otherwise waived.

Section 7.09 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that limits the ability of (a) any Non-Loan Party to make Restricted Payments to (directly or indirectly) or to make or repay loans or advances to any Loan Party or (b) any Loan Party to create, incur, assume or suffer to exist Liens on property of such Person for the benefit of the Lenders with respect to any Facility and the Obligations under the Loan Documents; provided that the foregoing clauses (a) and (b) shall not apply to Contractual Obligations that:

(a) (x) exist on the date hereof and (y) to the extent set forth in an agreement evidencing Indebtedness, are set forth in any agreement evidencing any permitted modification, replacement, renewal, extension or refinancing of such Indebtedness so long as such modification, replacement, renewal, extension or refinancing does not expand the scope of such Contractual Obligation in a material respect;

(b) are binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes or is designated as a Restricted Subsidiary, so long as such Contractual Obligations were not entered into in contemplation of such Person becoming a Restricted Subsidiary;

(c) are imposed by agreements governing or evidencing Indebtedness of a Non-Loan Party that is permitted by Section 7.03;

(d) are required, by or pursuant to, applicable Laws;

(e) are customary restrictions that arise in connection with (x) any Lien permitted by Sections 7.01(a), (i), (l), (m), (o), (r), (t), (u), (x), (y), (z), (bb), (dd), (ee), (ff), (gg), (hh), (ii) and/or (jj) or any document in connection therewith provided that such restriction relates only to the property subject to such Lien or (y) any Disposition permitted by Section 7.05 applicable pending such Disposition solely to the assets subject to such Disposition;

(f) are customary provisions in joint venture agreements and other similar agreements applicable to Joint Ventures and non-wholly owned Subsidiaries permitted under Section 7.02 and applicable solely to such Person entered into in the ordinary course of business;

(g) are negative pledges and restrictions on Liens in favor of any holder of Indebtedness permitted under Section 7.03 but solely to the extent any negative pledge relates to the specific property financed by or the subject of such Indebtedness and the proceeds and products thereof;

(h) are customary restrictions on leases, subleases, licenses, sublicenses, Equity Interests, or asset sale agreements and other similar agreements otherwise permitted hereby so long as such restrictions relate to the assets subject thereto;

(i) comprise restrictions imposed by any agreement relating to secured Indebtedness permitted pursuant to Sections 7.03(b), (e), (g), (h), (n), (o)(i), (p), (r), (s) or (t) to the extent that such restrictions apply only to the property or assets securing such Indebtedness;

(j) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of any Restricted Subsidiary;

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

(l) are restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business;

(m) are customary restrictions in any Incremental Equivalent Debt or any Refinancing Equivalent Debt;

(n) arise in connection with cash or other deposits permitted under Section 7.01;

(o) comprise restrictions imposed by any agreement governing Indebtedness entered into after the Closing Date and permitted under Section 7.03 that are, at the time such agreement is entered into, taken as a whole, in the good faith judgment of the Lead Borrower, not materially more restrictive with respect to any Borrower or any other Restricted Subsidiary than (x) customary market terms for Indebtedness of such type, (y) the restrictions contained in this Agreement or (z) restrictions in effect on the Closing Date (pursuant to documents in effect on the Closing Date), so long as the Lead Borrower shall have determined in good faith that such restrictions will not affect its obligation or ability to make any payments required hereunder;

- (p) apply by reason of any applicable Laws or are required by any Governmental Authority having jurisdiction over Holdings', any Borrower's or any other Restricted Subsidiary's status (or the status of any Subsidiary of such Restricted Subsidiary) as a Captive Insurance Subsidiary;
- (q) are contracts or agreements for the sale or Disposition of assets, including any restriction with respect to a Subsidiary imposed pursuant to an agreement entered into for the sale or Disposition of the Equity Interests or assets of such Subsidiary;
- (r) comprise restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business; or
- (s) are any encumbrances or restrictions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (a) through (r) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Lead Borrower, no more restrictive in any material respect with respect to such restrictions than those contained in such contracts, instruments or obligations prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 7.10 Financial Covenants.

- (a) Permit the Total Net Leverage Ratio to be greater than 3.50 to 1.00 as of the last day of each Test Period ending on the last day of a fiscal quarter (commencing with the Test Period ending on December 31, 2021).
- (b) Permit the Fixed Charge Coverage Ratio to be less than 1.25 to 1.00 as of the last day of each Test Period ending on the last day of a fiscal quarter (commencing with the Test Period ending on December 31, 2021).

Section 7.11 [Reserved].

Section 7.12 Prepayments, Etc. of Indebtedness; Certain Amendments Prepay, redeem, purchase, defease, retire or extinguish or otherwise satisfy prior to the scheduled maturity thereof in any manner (it being understood that payments of regularly scheduled principal, interest, mandatory prepayments, mandatory offers to purchase, fees, expenses and indemnification obligations and any AHYDO Catch-Up Payment shall be permitted) any Indebtedness for borrowed money of any Borrower or any Subsidiary Guarantor of the type described in clause (a) of the definition of "Indebtedness" in excess of \$25,000,000 in the aggregate that is contractually subordinated in right of payment to, or secured by Liens that are contractually subordinated to the Liens securing, the Obligations, in each case, expressly by its terms (in each case, other than Indebtedness among the Borrowers and the other Restricted Subsidiaries) (such Indebtedness, collectively, "**Junior Financing**"), except (i) the refinancing or replacement thereof with the Net Cash Proceeds of, or in exchange for, any Indebtedness constituting a Permitted Refinancing thereof, (ii) the prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition of any Junior Financing in exchange for, or out of the proceeds of, the substantially concurrent sale of, Equity Interests of Holdings (or any direct or indirect parent of Holdings) or contributions to the equity capital of Holdings (in each case other than any Disqualified Equity Interests and to the extent not applied as an "**Excluded Contribution**" or included in the definition of "**Specified Equity Contribution**"), (iii) the prepayment of Indebtedness of any Borrower or any other Restricted Subsidiary owed to Holdings, any Borrower or any other Restricted Subsidiary or the prepayment of any other Junior Financing with the proceeds of any other Junior Financing otherwise permitted by Section 7.03, (iv) the prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition of Junior Financing in an aggregate amount, not to exceed the greater of (x) \$16,000,000 and (y) 20% of Consolidated EBITDA (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination, (v) the prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition of Junior Financing in an amount not to exceed the Available Amount immediately prior to the time of the making of such prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition; provided that (1) no Event of Default shall have occurred and be continuing or would result therefrom and (2) immediately after giving effect to such prepayment, redemption, repurchase, defeasance, exchange, acquisition

or retirement or other acquisition, the Total Net Leverage Ratio (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination is less than or equal to 2.50:1.00; *provided*, that if the relevant transaction is a Limited Condition Transaction, the standard shall be on the date the definitive agreement governing such prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition is executed, immediately after giving Pro Forma Effect thereto, (x) no Event of Default shall have occurred and be continuing, (y) no Event of Default under Section 8.01(a) or Section 8.01(f) shall have occurred and be continuing after giving effect thereto and (z) the Total Net Leverage Ratio (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period on or prior to the date of determination is less than or equal to 2.50:1.00, (vi) the prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition of Junior Financing prior to their scheduled maturity that are made with Excluded Contributions to the extent Not Otherwise Applied, (vii) additional prepayments, redemptions, repurchases, defeasances, exchanges, acquisitions or retirements or other acquisitions of Junior Financing so long as (x) immediately after giving effect to such the prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition, the Total Net Leverage Ratio (calculated on a Pro Forma Basis) is equal to or less than 2.25:1.00 and (y) no Event of Default shall have occurred and be continuing and/or (viii) the prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition of Junior Financing within 60 days of the date of a redemption notice if, at the date of any prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition notice in respect thereof, such prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition would have complied with another provision of this Section 7.12; *provided* that such prepayment, redemption, repurchase, defeasance, exchange, acquisition or retirement or other acquisition under this Section 7.12(a)(viii) shall reduce capacity under such other provision with respect to any other Junior Financing that is subordinated in right of payment to the Obligations expressly by its terms in violation of any subordination terms of any such Junior Financing.

(a) Amend, modify or change in any manner that would be materially adverse to the interests of the Lenders, any term or condition of any Junior Financing Documentation in respect of any Junior Financing (other than as a result of the refinancing or replacement thereof with the Net Cash Proceeds of, or in exchange for, any Indebtedness constituting a Permitted Refinancing thereof) without the consent of the Administrative Agent (which consent shall not be unreasonably withheld or delayed); *provided* that, in respect of any Junior Financing, in no event shall any amendment, modification or change in respect of any term or condition of any Junior Financing Documentation that is expressly permitted (other than by cross reference to this Agreement) by the terms of the applicable subordination agreement in respect of such Junior Financing be deemed to be materially adverse to the interests of the Lenders.

(b) [Reserved].

(c) Other than amendments, modifications or changes made in connection with the Closing Date IPO, amend, modify or change its certificate or articles of incorporation or association (including, without limitation, by the filing or modification of any certificate or articles of designation), certificate of formation, registration or incorporation, limited liability company agreement or by-laws (or the equivalent organizational documents), as applicable, in each case, in any manner materially adverse to the interests of the Lenders.

Section 7.13 Holdings. In the case of Holdings, conduct, transact or otherwise engage in any material business or operations other than the following (and activities incidental thereto): (i) its ownership of the Equity Interests of the Borrowers, Holdings' direct Subsidiaries and, indirectly, the other Subsidiaries of each of the foregoing (ii) the maintenance of its legal existence (including the ability to incur fees, costs and expenses relating to such maintenance), (iii) the performance of its obligations, including the giving of guarantees or (where permitted) the granting of Liens on its assets, with respect to the Loan Documents, any Incremental Equivalent Debt, any Refinancing Equivalent Debt or any Permitted Refinancing of the foregoing, and any agreement contemplated in connection with a transaction otherwise permitted under this Section 7.13, (iv) any public offering of its common stock or any other issuance of its Equity Interests (including Qualified Equity Interests), (v) any transaction that Holdings is expressly permitted to enter into or consummate under this Article VII and any transaction between Holdings and any Borrower or any other Restricted Subsidiary expressly permitted under this Article VII, including, (A) any transaction permitted under Section 7.04 or Section 7.05, (B) making (x) payments or Restricted Payments to the extent otherwise permitted under this Section 7.13 and (y) Restricted Payments with any amounts received pursuant to transactions permitted under, and for the purposes contemplated by, Section 7.06 (or, in each case, the making of a loan to any direct or

indirect parent in lieu of any such Restricted Payment) and (C) making any Investment to the extent (1) payment therefor is made solely with the Equity Interests of Holdings (other than Disqualified Equity Interests), the proceeds of Restricted Payments received from any Borrower and/or proceeds of the issuance of, or contribution in respect of, the, Equity Interests (other than Disqualified Equity Interests) of Holdings and (2) any property (including Equity Interests) acquired in connection therewith is contributed to any Borrower or any Subsidiary Guarantor (or, if otherwise permitted by Section 7.06 or constituting an Investment permitted hereunder, any other Restricted Subsidiary) or the Person formed or acquired in connection therewith is merged with any Borrower or any other Restricted Subsidiary, (vi) incurring fees, costs and expenses relating to overhead and general operating including professional fees for legal, tax and accounting issues and paying taxes, (vii) the incurrence of intercompany debt extended to it pursuant to Section 7.02(m), (viii) making Investments in the Lead Borrower, (ix) guaranteeing the obligations of its Restricted Subsidiaries (including the Borrowers) and granting a security interest in its assets related thereto (to the extent such obligations are permitted to be secured by Liens on assets granted by such Restricted Subsidiaries in accordance with Section 7.01), in each case solely to the extent such obligations of such Restricted Subsidiaries are not prohibited hereunder, and the performance of obligations in respect of Indebtedness of the type permitted under Section 7.03 and Liens of the type permitted under Section 7.01, including incurrence of Indebtedness of Holdings representing deferred compensation to members, employees, consultants, independent or contractors of Holdings (or any direct or indirect parent thereof) and unsecured Indebtedness consisting of promissory notes issued by any Loan Party to future, present or former officers, directors, employees, members of management, and consultants (or their respective estates, executors, administrators, heirs, family members, legatees, distributees, spouses, former spouses, domestic partners and former domestic partners) of Holdings or any direct or indirect parent thereof, the Borrowers or other Restricted Subsidiaries of Holdings to finance the retirement, acquisition, repurchase, purchase or redemption of Equity Interests of Holdings or any direct or indirect parent thereof, (x) participating in tax, accounting and other administrative matters as a member of the consolidated, combined, unitary or similar group that included Holdings and the Borrowers, (xi) holding any cash, Cash Equivalents or other property received in connection with Restricted Payments received from, and Investments in Holdings made by, its Restricted Subsidiaries, contributions to its capital or in exchange for the issuance of Equity Interests (including the redemption in whole or in part of any of its Equity Interests (other than Disqualified Equity Interests) in exchange for another class of Equity Interests (other than Disqualified Equity Interests) or rights to acquire its Equity Interests (other than Disqualified Equity Interests) or with proceeds from substantially concurrent equity contributions or issuances of new shares of its Equity Interests (other than Disqualified Equity Interests)) and Investments received in respect of any of the foregoing pending application thereof by Holdings, (xii) providing indemnification and contribution to directors, officers, employees, members of management, and consultants and the making of any loan to any directors, officers, employees, members of management, and consultants contemplated by Section 7.02, (xiii) making Investments in assets that are Cash Equivalents at the time any such Investment is made, (xiv) activities incidental to the consummation of the Transaction, (xv) organizational activities incidental to Permitted Acquisitions or similar Investments consummated by any Borrower or any other Restricted Subsidiary, including the formation of acquisition vehicle entities (subject to Section 6.11) and intercompany loans and/or investments incidental to such Permitted Acquisitions or similar Investments in each case consummated substantially contemporaneously with the consummation of the applicable Permitted Acquisitions or similar Investments, and (xvi) activities incidental to the businesses or activities described in clauses (i) to (xv) of this Section 7.13.

ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES

Section 8.01 Events of Default. Each of the events referred to in clauses (a) through (l) of this Section 8.01 shall constitute an “Event of Default”:

(a) Non-Payment. The Borrowers fail to pay (i) when and as required to be paid herein, any amount of principal of any Loan, (ii) within five (5) Business Days after the same becomes due, any interest on any Loan, any reimbursement obligations in respect of any drawing under a Letter of Credit or any regularly scheduled fees payable hereunder or (iii) within thirty (30) days after the same becomes due, any other fees, expenses and amounts due under the Loan Documents; or

(b) Specific Covenants. Any Borrower or any Restricted Subsidiary (or, in the case of Section 7.13, Holdings) fails to perform or observe any term, covenant or agreement contained in:

(i) any of Section 6.03(a) or Section 6.05(a) (solely with respect to the Lead Borrower) or Article VII (other than Section 7.10); or

(ii) Section 7.10; provided that an Event of Default under this clause (ii) is subject to cure pursuant to Section 8.04; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement or pay any amount after the same becomes due (in any such case, not specified in Section 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after the receipt by the Lead Borrower of written notice thereof from the Administrative Agent on behalf of the Required Lenders; or

(d) Representations and Warranties. (i) On and as of the Closing Date, any of the Specified Representations shall not be true and correct in any material respect (except for representations and warranties that are already qualified by materiality, in which case any such representation or warranty shall not be true and correct after giving effect to such materiality qualifier) on and as of the Closing Date (provided that to the extent any such Specified Representation specifically refers to an earlier date, it shall only be required to be true and correct in all material respects as of such earlier date), or
(ii) after the Closing Date, any representation, warranty, certification or statement of fact made or deemed made by any Borrower or any Guarantor herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be incorrect in any material respect when made or deemed made (except for any of the foregoing that are already qualified by materiality, in which case any such representation or warranty shall not be true and correct after giving effect to such materiality qualifier) and such failure continues for thirty (30) days after the receipt by the Lead Borrower of written notice thereof from the Administrative Agent on behalf of the Required Lenders; or

(e) Cross-Default. Any Loan Party or any Restricted Subsidiary (A) fails to make any payment beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of any Indebtedness (other than Indebtedness hereunder) having an aggregate outstanding principal amount (individually or in the aggregate with all other Indebtedness as to which such a failure shall exist) in excess of the Threshold Amount or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs (other than, with respect to Indebtedness consisting of Swap Contracts, termination events or equivalent events pursuant to the terms of such Swap Contracts and not as a result of any default thereunder by any Loan Party), the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity; *provided* that this clause (e)(B) shall not apply to secured Indebtedness that becomes subject to a mandatory prepayment or mandatory offer to purchase or redeem as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder; *provided, further*, that such failure is unremedied and is not waived by the holders of such Indebtedness prior to any termination of the Commitments, acceleration of the Loans or the exercise of other remedies pursuant to Section 8.02; or

(f) Insolvency Proceedings, Etc. (i) An Australian Insolvency Event occurs with respect to any Australian Loan Party or Australian Subsidiary thereof or (ii) Holdings, any Borrower or any Material Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, receiver or manager, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, receiver or manager, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days, or an order for relief is entered in any such proceeding; or

(g) Judgments. There is entered against Holdings, any Borrower or any other Restricted Subsidiary a final judgment or order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by self-insurance (if applicable) or independent third-party insurance as to which the insurer has been notified of such judgment or order and has not denied coverage thereof or third-party indemnification as to which the indemnitor has been notified of such indemnification obligation) that are (I) paid with Revolving Credit Loans and (II) either (A) enforcement proceedings shall have been commenced by any creditor upon any such judgment, order or decree or any judgment creditor shall legally attach or levy upon assets of any group member or (B) any such judgment shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of sixty (60) consecutive days; or

(h) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or would reasonably be expected to result in liability of any Borrower or any Borrower's ERISA Affiliates under Title IV of ERISA in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect or (ii) with respect to a Foreign Plan or Employee Benefit Plan, a termination, withdrawal or noncompliance with applicable Laws or plan terms that would reasonably be expected to result in a Material Adverse Effect; or

(i) Invalidity of Loan Documents. Any material provision of the Loan Documents taken as a whole, at any time after its execution and delivery and for any reason ceases to be in full force and effect, other than (x) as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 7.04 or 7.05), (y) as a result of acts or omissions by the Administrative Agent, the Collateral Agent or any Lender, in each case, which does not arise from the breach by any Loan Party of its obligations under the Loan Documents or (z) as a result of the satisfaction in full of all the Obligations; or any Loan Party contests in writing the validity or enforceability of the Loan Documents, taken as a whole; or any Loan Party denies in writing that it has any or further liability or obligation under the Loan Documents, taken as a whole (other than as a result of repayment in full of the Obligations and termination of the Aggregate Commitments), or purports in writing to revoke or rescind the Loan Documents, taken as a whole; or

(j) Collateral Documents. Any Collateral Document with respect to a material portion of the Collateral, after delivery thereof pursuant to Section 4.01, 6.11 or 6.13, shall for any reason (other than pursuant to the terms hereof or thereof including as a result of a transaction permitted under Section 7.04 or 7.05) cease to create, or any Lien with respect to a material portion of the Collateral purported to be created by such Collateral Document shall be asserted in writing by any Borrower or any other Loan Party not to be, a valid and perfected Lien, with the priority required by the Collateral Documents (or other security purported to be created on the applicable Collateral), on and security interest in any material portion of the Collateral purported to be covered thereby, subject to Liens permitted under Section 7.01, except to the extent that (i) any such perfection or priority is not required pursuant to the Collateral and Guarantee Requirement, (ii) any such loss of perfection or priority results from the failure of the Administrative Agent or the Collateral Agent to take any action within their control, including the failure to maintain possession of certificates actually delivered to it representing securities pledged under the Collateral Documents or to file Uniform Commercial Code continuation statements, but other than as a result of the breach by any Loan Party of its obligations under the Loan Documents, (iii) as to Collateral consisting of real property, such losses are covered by a lender's title insurance policy and such insurer has not denied coverage; or (iv) such loss of a valid or perfected security interest, as applicable, may be remedied by the filing of appropriate documentation without the loss of priority; or

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

(l) Failure of Subordination. The subordination provisions of any agreement, document or instrument governing any Indebtedness having an aggregate outstanding principal amount in excess of the Threshold Amount that is contractually subordinated in right of payment to Obligations, shall for any reason (except in accordance with its terms) be revoked or invalidated, or otherwise cease to be in full force and effect.

Section 8.02 Remedies upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent may with the consent of, and shall at the request of, the Required Lenders (subject to the provisions of Section 8.01(b)(ii) and Section 8.04) take any or all of the following actions:

(a) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuers to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

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

(c) require that the Borrowers Cash Collateralize the L/C Obligations in any manner described in the definition of Cash Collateralize (as determined by the applicable L/C Issuer(s), the Administrative Agent or Required Lenders, as applicable); and

(d) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Laws,

provided that (x) upon the occurrence of an actual or deemed entry of an order for relief with respect to Holdings or any Borrower under the Bankruptcy Code of the United States, the commitment of each Lender to make Loans and any obligation of the L/C Issuers to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrowers to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender and (y) in the case of an Event of Default arising under paragraph (b)(ii) of Section 8.01 in respect of a failure to observe or perform the covenant under Section 7.10, the actions set forth above may not be taken until the ability to exercise the Cure Right under Section 8.04 has expired (but may be taken as soon as the ability to exercise the Cure Right has expired to the extent it has not been so exercised or to the extent the Lead Borrower has confirmed in writing that it does not intend to exercise the Cure Right).

Section 8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02 (with such Cash Collateralization to be undertaken in the manner described in clause (a) of such definition)), subject to any Intercreditor Agreement, any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 10.04 and amounts payable under Article III) payable to the Administrative Agent and the Collateral Agent, in each case, in its capacity as such;

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

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans and L/C Borrowings, together with all accrued but unpaid fees, premiums and scheduled periodic payments under any Secured Hedge Agreements, ratably among the Secured Parties in proportion to the respective amounts described in this clause *Third* payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings, the Obligations under Secured Hedge Agreements (to the extent constituting breakage, termination and other payments not otherwise paid pursuant to clause "Third" above) and Obligations under Secured Cash Management Agreements, ratably among the Secured Parties in proportion to the respective amounts described in this clause *Fourth* held by them;

Fifth, to the Administrative Agent for the account of the L/C Issuers, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit;

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

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

Notwithstanding the foregoing, no amount received from any Guarantor shall be applied to any Excluded Swap Obligation of such Guarantor.

Subject to Section 2.03(c), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above and, if no Obligations remain outstanding, shall be returned to the Borrowers or as otherwise required by Law.

Section 8.04 Borrowers' Right to Cure. (a) Notwithstanding anything to the contrary contained in Section 8.01 or 8.02, for purposes of determining whether any Event of Default or potential Event of Default under the covenant set forth in Section 7.10 has occurred, as of any date, and at any time after the end of the applicable fiscal quarter until the expiration of the fifteenth (15th) Business Day after the date on which financial statements are required to be delivered pursuant to Section 6.01(a) or (b), as applicable with respect to the applicable fiscal quarter hereunder (the "**Cure Expiration Date**"), the Permitted Holders (or any other Person so long as no Change of Control results therefrom) may make a cash Specified Equity Contribution, directly or indirectly, to the Borrowers, and the Borrowers may apply the amount of the net cash proceeds thereof to increase Consolidated EBITDA with respect to such fiscal quarter (the "**Cure Right**"); *provided* that (i) such net cash proceeds are actually received by the Borrowers as cash common equity or any other Qualified Equity Interests (including through capital contribution of such net cash proceeds to the Borrowers) no later than the Cure Expiration Date and (ii) the Borrowers shall have provided notice to the Administrative Agent on the date such amounts are designated as a "Specified Equity Contribution" and such amounts shall have not been previously designated as an Excluded Contribution or applied to increase the Available Amount (it being understood that to the extent such notice is provided in advance of delivery of a Compliance Certificate for the applicable period, the amount of such net cash proceeds that is designated as the Specified Equity Contribution may be lower than specified in such notice to the extent that the amount necessary to cure any Event of Default under the covenant set forth in Section 7.10 is less than the full amount of such originally designated amount).

(b) The right to make a Specified Equity Contribution is subject to the following conditions: (i) no more than two Specified Equity Contributions may be made in any period of four consecutive fiscal quarters, (ii) no more than five Specified Equity Contributions will be made in the aggregate during the term of this Agreement, (iii) the net cash proceeds of any Specified Equity Contribution shall be no more than the amount required to cause the Borrowers to be in pro forma compliance with Section 7.10 for any applicable period, (iv) there shall be no pro forma reduction in Indebtedness (including by way of "netting") with the proceeds of any Specified Equity Contribution for determining compliance with Section 7.10 for the 4-fiscal quarter period ending with the fiscal quarter ended immediately prior to the exercise of the Cure Right, (v) all Specified Equity Contributions shall be disregarded for purposes of determining pricing, financial ratio-based conditions (including the determination of compliance with the financial covenants set forth in Section 7.10 on a pro forma basis in connection with the utilization of any basket or exception or the taking of any action), Available Amount, Excluded Contributions, baskets with respect to covenants contained in the Loan Documents and all other purposes and (vi) following delivery to the Administrative Agent of any notice indicating an intent to make a Specified Equity Contribution, until such Specified Equity Contribution is made, unless consented to by the Required Revolving Credit Lenders, no Credit Extension under the Revolving Credit Facility shall be made under this Agreement.

(c) Notwithstanding anything to the contrary contained in Section 8.01 or 8.02, (A) upon receipt of a Specified Equity Contribution by any Borrower or any other Loan Party, the covenant set forth in Section 7.10 shall be deemed satisfied and complied with as of the end of the relevant fiscal quarter with the same effect as though there had been no failure to comply with Section 7.10 and any Default related to any failure to comply with Section 7.10 (and any other Default as a result thereof) shall be deemed not to have occurred for any purpose under the Loan Documents and (B) following delivery to the Administrative Agent of any notice indicating an intent to make a Specified Equity Contribution, unless the Administrative Agent has received a written notice from the Lead Borrower of its intent not to make a Specified Equity Contribution and exercise its rights under this Section 8.04 prior to the Cure Expiration Date, neither the Administrative Agent nor any Lender shall exercise any rights or remedies under Section 8.02 (or under any other provisions of the Loan Documents) available during the continuance of any Event of Default on the basis of any actual or purported failure to comply with Section 7.10 (and any other Default as a result thereof) until such failure is not cured with the proceeds of a Specified Equity Contribution on or prior to the Cure Expiration Date.

ARTICLE IX **ADMINISTRATIVE AGENT AND OTHER AGENTS**

Section 9.01 Appointment and Authority of the Administrative Agent.

(a) Each Lender hereby irrevocably appoints KeyBank to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such rights, powers and remedies as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto (including but not limited to acting as the disbursing and collecting agent for the Lenders and the L/C Issuers with respect to all payments and collections arising in connection with the Loan Documents (including any proceeding described in Section 8.01(f) or any other bankruptcy, insolvency or similar proceeding), and each Person making any payment in connection with any Loan Document to any Secured Party is hereby authorized to make such payment to the Administrative Agent). The provisions of this Article IX, other than in respect of Section 9.03(b)(v), Section 9.09, Section 9.11, Section 9.13 and Section 9.14, are solely for the benefit of the Administrative Agent and the Lenders, and the Loan Parties shall not have rights as a third party beneficiary of any such provisions.

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

(c) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders (including in its capacities as a Lender, Swing Line Lender (if applicable), L/C Issuer (if applicable) and a potential Hedge Bank and/or Cash Management Bank) hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent and security trustee of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for) the Secured Parties for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as "collateral agent" (and any co-agents, co-security trustees, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.05(b) for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article IX (including Section 9.07, as though such co-agents, co-security trustees, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents) as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, each of the Lenders (including in its capacities as a Lender, Swing Line Lender (if applicable), L/C Issuer (if applicable) and a potential Hedge Bank and/or Cash Management Bank) hereby expressly authorizes the Administrative Agent to execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including any First Lien Intercreditor Agreement, any Second Lien Intercreditor Agreement and/or any other intercreditor agreements entered into in connection herewith, and security trust documents), as contemplated by, in accordance with or otherwise in connection with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

Section 9.02 Rights as a Lender. Any Person serving as an Agent (including as Administrative Agent), Swing Line Lender or L/C Issuer hereunder shall have the same rights and powers in its capacity as a Lender (including but not limited to (A) execution and delivery of the Loan Documents, on its own behalf, and acceptance of delivery thereof on its own behalf from any Loan Party, and (B) approval, execution and delivery, on its own behalf, of any amendment, consent or waiver under any of the foregoing Loan Documents or other agreements related thereto) as any other Lender and may exercise the same as though it were not an Agent, Swing Line Lender or L/C Issuer and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Person serving as an Agent, Swing Line Lender or L/C Issuer 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 any Borrower or any other Subsidiary or other Affiliate thereof as if such Person were not an Agent, Swing Line Lender or L/C Issuer hereunder and without any duty to provide notice or account therefor to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent, Swing Line Lender or L/C Issuer or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent, Swing Line Lender or L/C Issuer shall be under any obligation to provide such information to them.

Section 9.03 Exculpatory Provisions.

Neither the Administrative Agent nor any other Agent shall have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, an Agent (including the Administrative Agent):

(i) shall not be subject to any fiduciary or other implied (or express) duties, regardless of whether a Default or Event of Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under any agency doctrine of any applicable Laws and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(ii) 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 such 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 no Agent shall be required to take any action (or where so instructed, refrain from exercising) (i) unless, upon reasonable request, such Agent receives an indemnification reasonably satisfactory to it from the Lenders (or, to the extent applicable and acceptable to Agent, any other Person) against all liabilities that, by reason of such action or omission, may be imposed on, incurred by or asserted against such Agent or any Agent-Related Person thereof or (ii) that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Laws; and

(iii) 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 any Borrower or any of the Affiliates of the Borrowers that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in [Section 8.02](#) and [Section 10.01](#)) or (ii) in the absence of its own gross negligence or willful misconduct as determined by the final, non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Lead Borrower or a Lender.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital, 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 (including, without limitation, compliance with the terms and conditions of Section 10.07(h)(iii)), (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, (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent, or (vii) to inspect the properties, books or records of any Loan Party or any Affiliate thereof.

Section 9.04 Reliance by the Administrative Agent. The Administrative 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 Transmission, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan (or the issuance, extension, renewal or increase of such Letter of Credit). The Administrative 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.

No Agent nor any of its Agent-Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Secured Party hereby waives and shall not assert any right, claim or cause of action based thereon, except to the extent of liabilities resulting primarily from the gross negligence, bad faith or willful misconduct of such Agent or, as the case may be, such Agent-Related Person (each as determined by a court of competent jurisdiction by final and nonappealable judgment) in connection with the duties expressly set forth herein. Without limiting the foregoing, the Secured Parties agree that each Agent and its Agent-Related Persons:

- (i) shall not be responsible to any Secured Party, or otherwise incur liability to any Secured Party, for any action or omission taken in reliance upon the instructions of the Required Lenders or for the actions or omissions of any of its Agent-Related Persons selected with reasonable care (other than employees, officers and directors of such Agent, when acting on behalf of such Agent);
- (ii) shall not be responsible to any Secured Party for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document;
- (iii) makes no warranty or representation, and shall not be responsible, to any Secured Party for any statement, document, information, representation or warranty made or furnished by or on behalf of any Loan Party or any Related Person of any Loan Party in connection with any Loan Document or any transaction contemplated therein or any other document or information with respect to any Loan Party, whether or not transmitted or omitted to be transmitted by such Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by such Agent in connection with the Loan Documents;
- (iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document, whether any condition set forth in any Loan Document is satisfied or waived, as to the financial condition of any Loan Party or as to the existence or continuation or possible occurrence or continuation of any Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from the Lead Borrower or any Secured Party describing such Default clearly labeled "notice of default" (in which case Agent shall promptly give notice of such receipt to all Lenders); and

(v) for each of the items set forth in clauses (i) through (iv) above, each Secured Party hereby waives and agrees not to assert any right, claim or cause of action it might have against any Agent based thereon.

The Administrative Agent may at any time request instructions from the Lenders with respect to any actions or approvals which by the terms of this Agreement or of any of the Loan Documents the Administrative Agent is permitted or desires to take or to grant, and the Administrative Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. No Lender shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting under this Agreement or any of the other Loan Documents in accordance with the instructions of the Required Lenders. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders; *provided* that the Administrative Agent shall not be required to take any action that, in its opinion or in the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Laws.

Section 9.05 Exclusive Right to Enforce Rights and Remedies: Delegation of Duties

(a) The authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, each Agent to the extent provided in, and in accordance with, the Loan Documents for the benefit of all the Secured Parties; *provided* that the foregoing shall not prohibit (i) any Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents, (ii) each L/C Issuer from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer) hereunder and under the other Loan Documents, (iii) any Lender from exercising setoff rights in accordance with Section 10.09 and this Section 9.05 or (iv) any Secured Party from filing proofs of claim (and thereafter appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any bankruptcy, other debtor relief law or Australian Insolvency Event in relation to any Australian Loan Party), but in the case of this clause (iv) if, and solely if, the applicable Agent has not filed such proof of claim or other instrument of similar character in respect of the Obligations within five (5) days before the expiration of the time to file the same.

(b) The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents by or through any one or more sub agents appointed by the Administrative Agent. The Administrative 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 Agent-Related Persons. The exculpatory provisions of this Article IX shall apply to any such sub agent and to the Agent-Related Persons of the Administrative Agent and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Section 9.06 Non-Reliance on Administrative Agent and Other Lenders; Disclosure of Information by Agents. Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other

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

Section 9.07 Expenses; Indemnification of Agents.

(a) Each Lender agrees to reimburse the Administrative Agent and each of its Agent-Related Persons (to the extent not reimbursed by any Loan Party) promptly upon demand, severally and ratably, for any costs and expenses (including fees, charges and disbursements of financial, legal and other advisors and Other Taxes paid in the name of, or on behalf of, any Loan Party) that may be incurred by the Administrative Agent or any of its Agent-Related Persons in connection with the preparation, execution, delivery, administration, modification, consent, waiver or enforcement of, or the taking of any other action (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding (including preparation for and/or response to any subpoena or request for document production relating thereto) or otherwise) in respect of, or legal advice with respect to, its rights or responsibilities under, any Loan Document.

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

Section 9.08 No Other Duties; Other Agents, Lead Arrangers, Managers, Etc. Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. Anything herein to the contrary notwithstanding, none of the Bookrunners, the Lead Arrangers or the Agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder and such Persons shall have the benefit of this Article IX. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any agency or fiduciary or trust relationship with any Lender, Holdings, the Borrowers or any of the other Subsidiaries. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

Section 9.09 Resignation of Administrative Agent or Collateral Agent The Administrative Agent or Collateral Agent may at any time resign by giving thirty (30) days' prior written notice of its resignation to the Lenders, the L/C Issuer, the Swing Line Lender and the Lead Borrower. If an Agent-Related Distress Event has occurred, either the Required Lenders or the Lead Borrower (other than during the existence of an Event of Default pursuant to Section 8.01(a) or Section 8.01(f) (solely with respect to the Lead Borrower)) may, upon ten (10) days' notice, remove the Administrative Agent or Collateral Agent. Upon receipt of any such notice of resignation or removal, the Required Lenders shall have the right, with the consent of the Lead Borrower, in its sole discretion, at all times other than during the existence of an Event of Default pursuant to Section 8.01(a) or 8.01(f) (solely with respect to the Lead Borrower), to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such Lender or bank with an office in the United States (in each case, other than a Disqualified Institution or a Defaulting Lender). 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 receipt of such removal notice or the retiring Administrative Agent or Collateral Agent, as applicable, gives notice of its resignation, then the Administrative Agent or the Collateral Agent shall notify the Lead Borrower and the Lenders that no qualifying Person has accepted such appointment and then (i) in the case of the retiring Administrative Agent or Collateral Agent, the retiring Administrative Agent or Collateral Agent, as applicable, may on behalf of the Lenders and the L/C Issuer, appoint a successor Administrative Agent or Collateral Agent, as applicable, meeting the qualifications set forth above with the consent of the Lead Borrower, in its sole discretion; *provided* that no consent of the Lead Borrower shall be required if an Event of Default under Section 8.01(a) or, solely with respect to the Lead Borrower, Section 8.01(f) has occurred and is continuing or (ii) in the case of a removal, the Lead Borrower may, after consulting with the Required Lenders, appoint a successor Administrative Agent or Collateral Agent, as applicable, meeting the qualifications set forth above; *provided* that if no qualifying Person has accepted such appointment, then such resignation or removal shall nonetheless become effective (in the case of clause (i) above, in accordance with such notice from the Administrative Agent or the Collateral Agent, as applicable, to that effect) and (A) the retiring or removed Administrative Agent or Collateral Agent, as applicable, shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that (x) in the case of any Collateral security held by the Administrative Agent or Collateral Agent on behalf of the Lenders, the Swing Line Lender or L/C Issuers under any of the Loan Documents, the retiring or removed Administrative Agent or Collateral Agent, as applicable, shall continue to hold such Collateral security (including any Collateral security subsequently delivered to the Administrative Agent or Collateral Agent, as applicable) as bailee, trustee or other applicable capacity until such time as a successor of such Agent is appointed, (y) the Administrative Agent or Collateral Agent, as applicable, shall continue to act as collateral agent and security trustee for the purposes of identifying a "security agent" (or similar title) in any filing or recording financing statements, amendments thereto or other applicable filings or recordings with any Governmental Authority necessary for the perfection of the liens on Collateral securing the Obligations to the extent required by the Loan Documents and (z) it shall continue to be subject to Section 10.08) and (B) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender, Swing Line Lender and the L/C Issuer directly (and each Lender, Swing Line Lender and L/C Issuer will cooperate with the Borrowers to enable the Borrowers to take such actions), until such time as the Required Lenders or the Lead Borrower, as applicable, appoint a successor Administrative Agent or Collateral Agent, as applicable, as provided for above in this Section 9.09. Upon the acceptance of a successor's appointment as Administrative Agent or Collateral Agent, as applicable, hereunder and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to (i) continue the perfection of the Liens granted or purported to be granted by the Collateral Documents or (ii) otherwise ensure that the requirements of Section 6.11 and the Collateral and Guarantee Requirement are satisfied, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) or removed Administrative Agent or Collateral Agent, as applicable, and the retiring (or retired) or removed Administrative Agent or Collateral Agent, as applicable, 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 9.09) other than its obligations under Section 10.08. The fees payable by the Borrowers to a successor Administrative Agent or Collateral Agent, as applicable, shall be the same as those payable to its predecessor unless otherwise agreed between the Lead Borrower

and such successor. After the retiring or removed Administrative Agent's or Collateral Agent's resignation or removal hereunder and under the other Loan Documents, (x) the provisions of this Article IX and Section 10.04 and Section 10.05 shall continue in effect for the benefit of such retiring or removed Administrative Agent or Collateral Agent, as applicable, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them solely in respect of the Loan Documents or Obligations, as applicable, while the retiring Agent was acting as Administrative Agent or Collateral Agent, as applicable and (y) Section 10.08 shall continue to be binding upon the Administrative Agent, the Collateral Agent and such other Persons.

Section 9.10 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party or an Australian Insolvency Event in relation to any Australian Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrowers) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, the L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Section 2.03(i), Section 2.03(j), Section 2.09 and Section 10.04) allowed in such judicial proceeding; and

(ii) 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 the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Section 2.09 and Section 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 9.11 Collateral and Guaranty Matters. Each of the Lenders (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank) irrevocably agree (and authorizes the Administrative Agent and/or the Collateral Agent, as the case may be, to take any necessary or advisable action to effectuate any of the following):

(a) that any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document shall be automatically released (i) upon expiration or termination of the Aggregate Commitments and payment in full of all Obligations (other than (w) outstanding Letters of Credit that have been Cash Collateralized, (x) Obligations under Secured Hedge Agreements, (y) Obligations under Secured Cash Management Agreements and (z) unasserted contingent indemnification obligations not yet accrued and payable) (the "**Termination Date**"), (ii) at the time the property subject to such Lien is transferred or to be transferred as part of or in connection with any transfer permitted hereunder or under any other Loan Document to any Person other than a Loan Party (whether as a Disposition or an Investment), (iii) subject to Section 10.01, if the release of such Lien is approved, authorized or ratified 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), (iv) if the property subject to such Lien is owned by a Guarantor, upon release of such Guarantor from its obligations under its Guaranty pursuant to clause (c) below or (v) if and to the extent such property constitutes an Excluded Asset;

(b) to release or subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(b), Section 7.01(i), Section 7.01(o) or, to the extent related to the foregoing, Section 7.01(dd);

(c) that any Borrower (other than the Lead Borrower) or Guarantor shall be automatically released from its obligations hereunder and under the Guaranty, as applicable, if (i) in the case of any Subsidiary, such Person ceases to be a Restricted Subsidiary or becomes an Excluded Subsidiary (in the case of an Excluded Subsidiary of the type described in clause (d) of the definition thereof, only if (x) is not undertaken primarily for the purpose of causing such Borrower or Guarantor to cease being a Borrower or Guarantor, as applicable and (y) occurs as a result of a transaction involving the sale of Equity Interests in such Subsidiary to a non-affiliated third party for a bona fide business purpose for fair market value), in each case as a result of a transaction permitted hereunder (including as a result of a Subsidiary Guarantor being designated as an Unrestricted Subsidiary) or (ii) in the case of Holdings, as a result of a transaction permitted hereunder; *provided* that no such release shall occur if such Guarantor continues (after giving effect to the consummation of such transaction or designation) to be a guarantor in respect of any Junior Financing; and

(d) to act collectively through the Administrative Agent and, without limiting the delegation of authority to the Administrative Agent set forth herein, the Required Lenders shall direct the Administrative Agent with respect to the exercise of rights and remedies hereunder (including with respect to alleging the existence or occurrence of, and exercising rights and remedies as a result of, any Default in each case that could be waived with the consent of the Required Lenders), and such rights and remedies shall not be exercised other than through the Administrative Agent; *provided* that the foregoing shall not preclude any Lender from exercising any right of set-off in accordance with the provisions of Section 10.09 or enforcing compliance with the provisions set forth in the first proviso of Section 10.01 or from exercising rights and remedies (other than the enforcement of Collateral) with respect to any payment default after the occurrence of the Maturity Date with respect to any Loans made by it.

Upon request by the Administrative Agent at any time, 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) will confirm in writing the Administrative Agent's or Collateral Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.11. In each case as specified in this Section 9.11, the applicable Agent will (and each Lender irrevocably authorizes the applicable Agent to), at the Borrowers' expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or to evidence the release of such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.11; *provided* that (i) the applicable Agent shall have received a certificate of a Responsible Officer of the Lead Borrower containing such certifications as such Agent shall reasonably request and (ii) the applicable Agent shall not be required to execute any such document on terms which, in its reasonable opinion, would expose such Agent to liability or create any obligation or entail any consequence other than the release of such Guaranty and/or Liens without recourse or warranty.

No Agent shall 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 the Collateral Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall any Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

Section 9.12 Appointment of Supplemental Administrative Agents.

(a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a "Supplemental Administrative Agent" and collectively as "Supplemental Administrative Agents").

(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article IX and of Section 10.04 and Section 10.05 (obligating the Borrowers to pay the Administrative Agent's expenses and to indemnify the Administrative Agent and Collateral Agent) that refer to the Administrative Agent shall inure to the benefit of, and the provisions of Section 10.08 shall be binding upon, such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

(c) Should any instrument in writing from any Loan Party be reasonably required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Lead Borrower or Holdings, as applicable, shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon the reasonable request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

Section 9.13 Intercreditor Agreement. The Administrative Agent and the Collateral Agent are authorized to enter into any First Lien Intercreditor Agreement, any Second Lien Intercreditor Agreement and/or any other intercreditor or subordination agreement or arrangement entered into in connection herewith or contemplated hereby (and any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, such agreements or arrangements in connection with the incurrence by any Loan Party of any Indebtedness (or any Permitted Refinancing of the foregoing) to the extent permitted hereby) and the parties hereto acknowledge that any First Lien Intercreditor Agreement (if entered into), any Second Lien Intercreditor Agreement (if entered into) and/or any other intercreditor or subordination agreement or arrangement entered into in connection herewith or contemplated hereby, will be binding upon them. Each Lender (a) hereby agrees that it will be bound by and will take no actions contrary to the provisions of any First Lien Intercreditor Agreement (if entered into), any Second Lien Intercreditor Agreement (if entered into) and/or any other intercreditor or subordination agreement or arrangement entered into in connection herewith or contemplated hereby and (b) hereby authorizes and instructs the Administrative Agent and Collateral Agent to enter into, if applicable, any First Lien Intercreditor Agreement, any Second Lien Intercreditor Agreement and/or any other intercreditor or subordination agreement or arrangement entered into in connection herewith or contemplated hereby (and any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to, such agreements or arrangements in connection with the incurrence by any Loan Party of any Indebtedness (or any Permitted Refinancing of the foregoing) to the extent permitted hereby) and, in the case of any such Intercreditor Agreement or intercreditor agreement, to subject the Liens on the Collateral securing the Obligations to the provisions thereof.

Section 9.14 Secured Cash Management Agreements and Secured Hedge Agreements. Except as otherwise expressly set forth herein or in any Guaranty or any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefits of Section 8.03, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article IX to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have

been made with respect to, Obligations under Secured Cash Management Agreements or Obligations arising under Secured Hedge Agreements unless the Administrative Agent has received written notice of such Obligations under Secured Cash Management Agreements or such Obligations arising under Secured Hedge Agreements, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

Section 9.15 Withholding Taxes. To the extent required by any applicable Laws, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding tax. Without limiting or expanding the provisions of Section 3.01, each Lender shall indemnify and hold harmless the Administrative Agent against, and shall make payable in respect thereof within ten (10) days after demand therefor, any and all taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the IRS or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold tax from amounts paid to or for the account of such Lender for any reason (including, without limitation, because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding tax, ineffective). A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due to the Administrative Agent under this Section 9.15. The agreements in this Section 9.15 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, and the repayment, satisfaction or discharge of any Loans and all other amounts payable hereunder. For the avoidance of doubt, (i) the term "Lender" shall, for purposes of this Section 9.15 include any L/C Issuer or Swing Line Lender, (ii) the Loan Parties shall not be responsible for any amount described in this Section 9.15 and (iii) nothing in this Section 9.15 shall expand or limit the obligations of the Loan Parties under Section 3.01.

Section 9.16 Erroneous Payments.

(a) If the Administrative Agent (x) notifies a Lender, L/C Issuer or Secured Party (any such Lender, L/C Issuer or Secured Party (and each of their respective successors and permitted assigns), a "**Payment Recipient**") that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under Section 9.16(b)) that any funds (as set forth in such notice from the Administrative Agent) received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, L/C Issuer or Secured Party) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "**Erroneous Payment**") and (y) demands in writing the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent pending its return or repayment as contemplated below in this Section 9.16 and held in trust for the benefit of the Administrative Agent, and such Lender, L/C Issuer or Secured Party shall promptly, but in no event later than two Business Days thereafter (or such later date as the Administrative Agent may, in its sole discretion, specify in writing), return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon (except to the extent waived in writing by the Administrative Agent) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect in the currency of the relevant payment. A notice of the Administrative Agent to any Payment Recipient under this Section 9.16(a) shall be conclusive, absent manifest error.

(b) Without limiting Section 9.16(a), each Lender, L/C Issuer or Secured Party (and each of their respective successors and permitted assigns) agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in this Agreement or in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender, L/C Issuer or Secured Party otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each such case:

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

(ii) such Lender, L/C Issuer or Secured Party shall promptly (and, in all events, within two Business Days of its knowledge of the occurrence of any of the circumstances described in immediately preceding clauses (x), (y) and (z)) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 9.16(b).

For the avoidance of doubt, the failure to deliver a notice to the Administrative Agent pursuant to this Section 9.16(b) shall not have any effect on a Payment Recipient's obligations pursuant to Section 9.16(a) or on whether or not an Erroneous Payment has been made.

(c) Each Lender, L/C Issuer or Secured Party hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender, L/C Issuer or Secured Party under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Lender, L/C Issuer or Secured Party under any Loan Document with respect to any payment of principal, interest, fees or other amounts, against any amount that the Administrative Agent has demanded to be returned under Section 9.16(a).

(d) (i) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor in accordance with Section 9.16(a), from any Lender that has received such Erroneous Payment (or portion thereof) (such unrecovered amount, an "**Erroneous Payment Return Deficiency**"), upon the Administrative Agent's notice to such Lender at any time, then effective immediately (with the consideration therefor being acknowledged by the parties hereto), (A) such Lender shall be deemed to have assigned its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the "**Erroneous Payment Impacted Class**") in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the "**Erroneous Payment Deficiency Assignment**") (on a cashless basis and such amount calculated at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance)), and is hereby deemed to execute and deliver an Assignment and Assumption (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender shall deliver any Notes evidencing such Loans to the Lead Borrower or the Administrative Agent (but the failure of such Person to deliver any such Notes shall not affect the effectiveness of the foregoing assignment), (B) the Administrative Agent as the assignee Lender shall be deemed to have acquired the Erroneous Payment Deficiency Assignment, (C) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender, (D) the Administrative Agent shall be deemed to have waived any consents required under this Agreement to any such Erroneous Payment Deficiency Assignment, and (E) the Administrative Agent will reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender and such Commitments shall remain available in accordance with the terms of this Agreement.

(ii) Subject to Section 10.07 (but excluding, in all events, any assignment consent or approval requirements (other than the consent or approval of the Lead Borrower)), the Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender (and/or against any recipient that receives funds on its respective behalf). In addition, an Erroneous Payment Return Deficiency owing by the applicable Lender (x) shall be reduced by the proceeds of prepayments or repayments of principal and interest, or other distribution in respect of principal and interest, received by the Administrative Agent on or with respect to any such Loans acquired from such Lender pursuant to an Erroneous Payment Deficiency Assignment (to the extent that any such Loans are then owned by the Administrative Agent) and (y) may, in the sole discretion of the Administrative Agent, be reduced by any amount specified by the Administrative Agent in writing to the applicable Lender from time to time.

(e) The parties hereto agree that (x) irrespective of whether the Administrative Agent may be equitably subrogated, in the event that an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Lender, L/C Issuer or Secured Party, to the rights and interests of such Lender, L/C Issuer or Secured Party, as the case may be) under the Loan Documents with respect to such amount (the “**Erroneous Payment Subrogation Rights**”) (*provided* that the Loan Parties’ Obligations under the Loan Documents in respect of the Erroneous Payment Subrogation Rights shall not be duplicative of such Obligations in respect of Loans that have been assigned to the Administrative Agent under an Erroneous Payment Deficiency Assignment) and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrowers or any other Loan Party; *provided* that this Section 9.16 shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of the Borrowers relative to the amount (and/or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by the Administrative Agent; *provided, further*, that for the avoidance of doubt, immediately preceding clauses (x) and (y) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from or on behalf of Holdings or any of its Subsidiaries, directly or indirectly, for the purpose of making a payment to satisfy any Obligation.

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

(g) Each party’s obligations, agreements and waivers under this Section 9.16 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender or L/C Issuer, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

(h) Notwithstanding anything to the contrary herein or in any other Loan Document, this Section 9.03(b) will not increase or otherwise alter the Loan Parties’ obligations or liabilities under the Loan Documents.

ARTICLE X MISCELLANEOUS

Section 10.01 Amendments, Etc. (a) Except as otherwise set forth in this Agreement, no amendment, modification, supplement or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrowers or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders (other than with respect to any amendment or waiver contemplated in Sections 10.01(a)(i) through 10.01(a)(ix) below, which shall only require the consent of the Lenders expressly set forth therein and not the Required Lenders) and the Lead Borrower or other applicable Loan Party, as the case may be, and each such waiver, amendment, modification, supplement or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided* that, no such amendment, modification, supplement, waiver or consent shall:

(i) extend or increase the Commitment of any Lender without the written consent of each Lender directly and adversely affected thereby (it being understood that a waiver of (or amendment to the terms of) any condition precedent set forth in Section 4.01 or Section 4.02 or the waiver of any Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender);

(ii) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest under Section 2.07 or Section 2.08 without the written consent of each Lender directly and adversely affected thereby, it being understood that the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest and it further being understood that any change to the definition of “Total Net First Lien Leverage Ratio”, “Total Net Leverage Ratio”, “Total Net Secured Leverage Ratio” or any other ratio used as a basis to calculate the amount of any principal or interest payment or in the component definitions thereof shall not constitute a reduction in any amount of interest or fee;

(iii) postpone any date scheduled for, or reduce the principal of, or the rate of interest specified herein on, any Loan, Swing Line Borrowing or L/C Borrowing or (subject to clauses (i), (ii) and (iii) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby, it being understood that (x) a waiver of (or amendment to the terms of) any condition precedent set forth in Section 4.01 or Section 4.02 or the waiver of any Default or mandatory prepayment shall not constitute a reduction in principal and (y) any change to the definitions of the “Total Net First Lien Leverage Ratio”, “Total Net Leverage Ratio” or “Total Net Secured Leverage Ratio” or, in each case, in the component definitions thereof shall not constitute a reduction in the rate of interest; *provided* that only the consent of the Required Lenders shall be necessary to amend the definition of “Default Rate” or to waive any obligation of the Borrowers to pay interest at the Default Rate;

(iv) except in a transaction permitted by Section 7.04, permit assignment of rights and obligations of any Borrower hereunder, without the written consent of each Lender;

(v) (x) change any provision of this Section 10.01 or the definition of “Required Lenders,” “Required Facility Lenders,” “Required Revolving Credit Lenders” or “Required Term Lenders” or (y) amend or modify the definition of “Pro Rata Share”, the pro-rata sharing provisions contained in Sections 2.03(d), 2.04(d), 2.05(a)(i), 2.05(b)(v), 2.12 or 2.13, in each case, without the written consent of each Lender directly and adversely affected thereby; provided that the written consent of each Lender shall be required with respect to a reduction of any of the voting percentages set forth in the definition of “Required Lenders”;

(vi) other than in connection with a transaction permitted under Section 7.04 or Section 7.05, release the Liens on all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender;

(vii) other than in connection with a transaction permitted under Section 7.04 or Section 7.05, release all or substantially all of the aggregate value of the Guaranty or all or substantially all of the Guarantors, without the written consent of each Lender;

(viii) amend, waive or otherwise modify any term or provision (including the availability and conditions to funding under Section 2.14 with respect to New Term Loans and New Revolving Credit Commitments) which directly affects Lenders of one or more New Term Loans and New Revolving Credit Commitments and does not directly adversely affect Lenders under any other Class, in each case, without the written consent of the Required Facility Lenders under such applicable New Term Loans or New Revolving Credit Commitments (and in the case of multiple Classes which are affected, such Required Facility Lenders shall consent together as one Class);

(ix) without the written consent of each Lender directly and adversely affected thereby, (i) contractually subordinate any Obligations in right of payment to any other Indebtedness for borrowed money of the Loan Parties or (ii) contractually subordinate the Liens securing the Obligations on all or substantially all of the Collateral to Liens on all or substantially all of the Collateral securing other Indebtedness for borrowed money (any such other Indebtedness for borrowed money to which such Obligations or such Liens securing any of the Obligations, as applicable, are subordinated, “**Senior Indebtedness**”), in either the case of subclause (i) or (ii), unless each adversely affected Lender has been offered a bona fide opportunity to fund or otherwise provide its pro rata share (based on the amount of Obligations that are adversely affected thereby held by each Lender) of the Senior Indebtedness on the same terms (other than bona fide backstop fees and reimbursement of counsel fees and other expenses in connection with the negotiation of the terms of such transaction; such fees and expenses, “**Ancillary Fees**”) as offered to all other providers (or their Affiliates) of the Senior Indebtedness and to the extent such adversely-affected Lender decides to participate in the Senior Indebtedness, receive its pro rata share of the fees and any other similar benefit (other than Ancillary Fees) of the Senior Indebtedness afforded to the providers of the Senior Indebtedness (or any of their Affiliates) in connection with providing the Senior Indebtedness pursuant to a written offer made to each such adversely affected Lender describing the material terms of the arrangements pursuant to which the Senior Indebtedness is to be provided, which offer shall remain open to each adversely affected Lender for a period of not less than five (5) Business Days (it being understood that this clause (ix) shall not (A) override the permission for (x) Liens expressly permitted by Section 7.01 as in effect on the Closing Date, (y) Indebtedness expressly permitted by Section 7.03 as in effect on the Closing Date or (z) any debtor-in-possession financing, in the case of clauses (x), (y) and (z), in accordance with Section 9.11 as in effect on the Closing Date or (B) restrict an amendment to permit an increase in the maximum amount of Indebtedness (including secured Indebtedness) permitted hereunder);

and *provided, further,* that (i) no amendment, waiver or consent shall, unless in writing and signed by each L/C Issuer in addition to the Lenders required above, adversely affect the rights or duties of such L/C Issuer under this Agreement or any Letter of Credit Application relating to any Letter of Credit issued or to be issued by it, (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, adversely affect the rights or duties of such Swing Line Lender under this Agreement or any other Loan Documents, (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, adversely affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document and (iv) Section 10.07(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification. Any such waiver and any such amendment, modification or supplement in accordance with the terms of this Section 10.01 shall apply equally to each of the Lenders and shall be binding on the Loan Parties, the Lenders, the Agents and all future holders of the Loans and Commitments. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver, or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender (it being understood that any Commitments or Loans held or deemed held by any Defaulting Lender shall be excluded for a vote of the Lenders hereunder requiring any consent of the Lenders).

(b) Notwithstanding anything to the contrary herein:

(i) amendments and waivers of Section 7.10 and Section 8.04 (or any definition related thereto (as such definition is used therein)) or any Default resulting from a failure to perform or observe Section 7.10 or Section 8.04 will only require the approval of the Required Lenders;

(ii) no Lender consent is required to effect any amendment, modification or supplement to any First Lien Intercreditor Agreement, any Second Lien Intercreditor Agreement and/or any other intercreditor or subordination agreement or arrangement entered into in connection herewith or contemplated hereby (i) that is for the purpose of adding the holders of Indebtedness (or any Permitted Refinancing of the foregoing) (or a Representative with respect thereto) as parties thereto, as expressly contemplated by the terms of such First Lien Intercreditor Agreement, Second Lien Intercreditor Agreement or such other intercreditor or subordination agreement or arrangement, as applicable (it being understood that any such amendment, modification or supplement may make such other changes to the applicable intercreditor or subordination agreement or arrangement as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing; *provided* that such other changes, if material

to the interests of the Lenders, are permitted under the succeeding clauses (ii) and (iv)), (ii) that is expressly contemplated by any First Lien Intercreditor Agreement, any Second Lien Intercreditor Agreement and/or any other intercreditor or subordination agreement or arrangement entered into in connection herewith, (iii) that effects changes that are not material to the interests of the Lenders or (iv) that effects changes material to the interests of the Lenders which such changes have been posted to the Lenders not less than five (5) Business Days before execution thereof and with respect to which the Required Lenders shall not have objected in writing within five (5) Business Days after posting; provided further that no such agreement shall directly and adversely amend, modify or otherwise affect the rights or duties of the Administrative Agent or the Collateral Agent hereunder or under any other Loan Document without the prior written consent of the Administrative Agent or the Collateral Agent, as applicable.

(iii) this Agreement may be amended (or amended and restated) with the written consent of the Administrative Agent, the Lead Borrower and the Lenders providing the relevant Replacement Term Loans (as such term is defined below) to permit the refinancing of all or any portion of any Class of Term Loans outstanding (the “**Replaced Term Loans**”) with one or more tranches of term loans hereunder (the ‘**Replacement Term Loans**’); *provided* that (i) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Replaced Term Loans plus an amount equal to unpaid accrued interest, fees, premium (including call and tender premiums) thereon, defeasance costs, and fees and expenses incurred (including OID, upfront fees and similar items), in connection with such refinancing, (ii) the All-In-Yield for such Replacement Term Loans shall not be higher than the All-In-Yield for such Replaced Term Loans, (iii) the Weighted Average Life to Maturity and final maturity of such Replacement Term Loans shall not be shorter or earlier, as the case may be, than the Weighted Average Life to Maturity and maturity of such Replaced Term Loans at the time of such refinancing and (iv) all other terms (other than maturity and pricing) applicable to such Replacement Term Loans shall be substantially the same as, and no more favorable to the Lenders providing such Replacement Term Loans than, the terms applicable to such Replaced Term Loans, except to the extent necessary to provide for covenants and other terms applicable to any period after the maturity date in respect of the Replaced Term Loans in effect immediately prior to such refinancing or such other terms applicable to such Replacement Term Loans that are reflective of market terms and conditions for such Replacement Term Loans at the time of the issuance thereof (as determined by the Lead Borrower in good faith). Each amendment to this Agreement providing for Replacement Term Loans may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent and the Lead Borrower, to effect the provisions of this paragraph, and for the avoidance of doubt, this paragraph shall supersede any other provisions in this Section 10.01 to the contrary;

(iv) this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Lead Borrower (i) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the Revolving Credit Loans and the accrued interest and fees in respect thereof and (ii) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders;

(v) amendments and waivers of Section 2.03 and definitions used therein with respect to the matters regarding the mechanics and terms of issuance of Letters of Credit will require only the approval of the Lead Borrower, the Administrative Agent and each L/C Issuer so long as any such amendment or waiver are not adverse, in any material respect (taken as a whole), to the interests of the Lenders; and

(vi) this Agreement may be amended pursuant to an Incremental Amendment in accordance with the requirements of Section 2.14, a Refinancing Amendment in accordance with the requirements of Section 2.15 and an Extension Amendment in accordance with the requirements of Sections 2.17 or 2.18, as the case may be.

Notwithstanding anything to the contrary contained in this Section 10.01, the Guaranty, the Collateral Documents and related documents executed by the Loan Parties or the Subsidiaries in connection with this Agreement and the other Loan Documents may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended, modified and waived with the consent of the Administrative Agent at the request of the Lead Borrower without the need to obtain the consent of any other Lender if such amendment, modification or waiver is delivered in order (i) to comply with local Law or advice of local counsel, or (ii) to cause such Guaranty, Collateral Document or other document to be consistent with this Agreement and the other Loan Documents.

Notwithstanding anything to the contrary contained in this Section 10.01, if at any time after the Closing Date, the Administrative Agent and the Lead Borrower shall have jointly identified an obvious error (including, but not limited to, an incorrect cross-reference) or any error or omission of a technical or immaterial nature, in each case, in any provision of this Agreement or any other Loan Document (including, for the avoidance of doubt, any exhibit, schedule or other attachment to any Loan Document), then the Administrative Agent (acting in its sole discretion) and the Lead Borrower or any other relevant Loan Party shall be permitted to amend such provision. The Administrative Agent shall notify the Lenders of such amendment and such amendment shall become effective five (5) Business Days after such notification unless the Required Lenders object to such amendment in writing delivered to the Administrative Agent prior to such time.

Section 10.02 Notices and Other Communications: Facsimile Copies.

(a) **General.** Except in the case of notices and other communications expressly permitted to be given by telephone, all notices and other communications provided for herein shall be in writing (including by facsimile, e-mail or other electronic communication, subject to Section 10.02(b)) and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or e-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, any other Loan Party or the Administrative Agent, Swing Line Lender or an L/C Issuer to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a written notice to the other parties; and
- (ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a written notice to the Lead Borrower, the Administrative Agent, the Swing Line Lender and the L/C Issuers.

All such notices and other communications shall be (1) posted to Syndtrak® (to the extent such system is available and set up by or at the direction of the Administrative Agent prior to posting) in an appropriate location by uploading such notice, demand, request, direction or other communication to www.syndtrak.com or using such other means of posting to Syndtrak® as may be available and reasonably acceptable to the Administrative Agent prior to such posting or (2) otherwise posted to any other E-System approved by or set up by or at the direction of the Administrative Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, four (4) Business Days after deposit in the mail, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; (D) if delivered by electronic mail (which form of delivery is subject to the provisions of Section 10.02(c)), when delivered; and (E) if delivered by posting to any E-System, on the later of the Business Day of such posting and the Business Day access to such posting is given to the recipient thereof in accordance with the standard procedures applicable to such E-System; *provided* that notices and other communications to the Administrative Agent, the Swing Line Lender and the L/C Issuers pursuant to Article II shall not be effective until actually received by such Person. In no event shall a voice mail message or cellular text message be effective as a notice, communication or confirmation hereunder.

(b) Electronic Communication.

(i) Authorization. Subject to the provisions of Section 10.02(a), each of the Administrative Agent, the Lenders, each Loan Party and each of their Related Persons, is authorized (but not required) to transmit, post or otherwise make or communicate, in its sole discretion, Electronic Transmissions in connection with any Loan Document and the transactions contemplated therein. Each Loan Party and each Secured Party hereto acknowledges and agrees that the use of Electronic Transmissions is not necessarily secure and that there are risks associated with such use, including risks of interception, disclosure and abuse and each indicates it assumes and accepts such risks by hereby authorizing the transmission of Electronic Transmissions.

(ii) Signatures. Subject to the provisions of Section 10.02(a), (i)(A) no posting to any E-System shall be denied legal effect merely because it is made electronically, (B) each E Signature on any such posting shall be deemed sufficient to satisfy any requirement for a “signature” and (C) each such posting shall be deemed sufficient to satisfy any requirement for a “writing”, in each case including pursuant to any Loan Document, any applicable provision of any Uniform Commercial Code, the federal Uniform Electronic Transactions Act, the Electronic Signatures in Global and National Commerce Act and any substantive or procedural requirement of Law governing such subject matter, (ii) each such posting that is not readily capable of bearing either a signature or a reproduction of a signature may be signed, and shall be deemed signed, by attaching to, or logically associating with such posting, an E-Signature, upon which the Administrative Agent, each other Secured Party and each Loan Party may rely and assume the authenticity thereof, (iii) each such posting containing a signature, a reproduction of a signature or an E-Signature shall, for all intents and purposes, have the same effect and weight as a signed paper original and (iv) each party hereto or beneficiary hereto agrees not to contest the validity or enforceability of any posting on any E-System or E-Signature on any such posting under the provisions of any applicable requirement of Law requiring certain documents to be in writing or signed; *provided, however,* that nothing herein shall limit such party’s or beneficiary’s right to contest whether any posting to any E-System or E-Signature has been altered after transmission.

(iii) Separate Agreements. All uses of an E-System shall be governed by and subject to, in addition to this Section 10.02, the separate terms, conditions and privacy policy posted or referenced in such E-System (or such terms, conditions and privacy policy as may be updated from time to time, including on such E-System) and related contractual obligations executed by the Administrative Agent and the Loan Parties in connection with the use of such E-System.

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

(d) **LIMITATION OF LIABILITY.** ALL E-SYSTEMS AND ELECTRONIC TRANSMISSIONS SHALL BE PROVIDED “AS IS” AND “AS AVAILABLE”. NONE OF THE ADMINISTRATIVE AGENT, ANY LENDER, ANY LOAN PARTY OR ANY OF THEIR RELATED PERSONS WARRANTS THE ACCURACY, ADEQUACY OR COMPLETENESS OF ANY E-SYSTEMS OR ELECTRONIC TRANSMISSION AND DISCLAIMS ALL LIABILITY FOR ERRORS OR OMISSIONS THEREIN. NO WARRANTY OF ANY KIND IS MADE BY THE ADMINISTRATIVE AGENT, ANY LENDER, ANY LOAN PARTY OR ANY OF THEIR RELATED PERSONS IN CONNECTION WITH ANY E SYSTEMS OR ELECTRONIC COMMUNICATION, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS. Each party executing this Agreement and each Secured Party agrees that no Agent or Loan Party has any responsibility for maintaining or providing any equipment, software, services or any testing required in connection with any Electronic Transmission or otherwise required for any E-System.

(e) **Change of Address.** Any Loan Party and the Administrative Agent may change its address, facsimile, electronic mail address or telephone number for notices and other communications hereunder by written notice to the other parties hereto. Each other Lender may change its address, facsimile, electronic mail address or telephone number for notices and other communications hereunder by written notice to the Lead Borrower and the Administrative Agent. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative 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.

(f) **Reliance by the Administrative Agent.** The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices purportedly given by or on behalf of the Lead Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. All telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

Section 10.03 No Waiver; Cumulative Remedies. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Anything contained in any of the Loan Documents to the contrary notwithstanding, the Borrowers, the Administrative Agent, the Collateral Agent and each other Secured Party hereby agree that (a) subject to Section 10.09, no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guarantee, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights and remedies under the Collateral Documents may be exercised solely by the Collateral Agent, and (b) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Collateral Agent, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition.

Section 10.04 Attorney Costs and Expenses.

The Borrowers agree (a) if the Closing Date and funding of the initial Credit Extension hereunder occurs, to pay or reimburse the Administrative Agent and the Lead Arrangers for all reasonable and documented in reasonable detail out-of-pocket expenses incurred prior to, on or after the Closing Date (provided that in the case of payment to be made on the Closing Date, such expenses are to be invoiced three (3) Business Days prior to the Closing Date and otherwise, within thirty (30) days following written demand therefor) in connection with the preparation, execution, delivery and administration of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), limited, in the case of legal fees and expenses, to the Attorney Costs of one counsel to the Administrative Agent and the Lead Arrangers taken as a whole (and, to the extent reasonably deemed necessary by the Administrative Agent, of a single local counsel in each relevant jurisdiction material to the interests of the Administrative Agent and the Lead Arrangers taken as a whole (which may be a single local counsel acting in multiple material jurisdictions)) (in each case, except allocated costs of in-house counsel) and no other advisors, and (b) after the Closing Date, promptly following written demand therefor, to pay or reimburse the Administrative Agent, the

Lead Arrangers and the Lenders for all reasonable and documented in reasonable detail out-of-pocket costs and expenses incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law or an Australian Insolvency Event in relation to an Australian Loan Party, limited in the case of out-of-pocket legal fees and expenses, to the Attorney Costs of one counsel to the Administrative Agent and the Lenders taken as a whole and of a single local counsel in each relevant jurisdiction material to the interests of the Administrative Agent and the Lenders taken as a whole (which may be a single local counsel acting in multiple material jurisdictions) and, solely in the event of an actual conflict of interest between the Administrative Agent, the Lead Arrangers and the Lenders, where the Lender or Lenders affected by such conflict of interest inform the Lead Borrower in writing of such conflict of interest and thereafter retain its or their own counsel, one additional counsel in each relevant material jurisdiction to each group of affected Lenders similarly situated taken as a whole) (in each case, except allocated costs of in-house counsel) and no other advisors). The agreements in this Section 10.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion.

Section 10.05 Indemnification by the Borrowers. The Borrowers shall indemnify and hold harmless the Administrative Agent, any Supplemental Administrative Agent, the Collateral Agent, each Lender, the Lead Arrangers, the Bookrunners and their respective Affiliates, directors, officers, employees, representatives, agents and advisors (collectively the “**Indemnitees**”) from and against any and all losses, claims, damages and liabilities that may be asserted or awarded against the Indemnitees and expenses of any third party that may be awarded against any Indemnitee and other out of pocket expenses incurred in connection therewith asserted against any such Indemnitee relating to or arising out of or in connection with (but limited, in the case of out-of-pocket legal fees and expenses, to the Attorney Costs of one counsel to all Indemnitees taken as a whole and, if reasonably necessary, a single local counsel for all Indemnitees taken as a whole in each relevant jurisdiction that is material to the interest of the Lenders (which may be a single local counsel acting in multiple material jurisdictions), and solely in the case of an actual conflict of interest where the Indemnitee affected by such conflict of interest informs the Lead Borrower in writing of such conflict of interest and thereafter retains its own counsel, one additional counsel in each relevant material jurisdiction to each group of affected Indemnitees taken as a whole) (in each case, except allocated costs of in-house counsel) and no other advisors (a) the execution, delivery, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, (b) any Commitment, Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by an L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), or (c) any actual or alleged presence or release of Hazardous Materials on or from any real property currently or formerly owned or operated by any Borrower or any other Loan Party, or any Environmental Liability arising out of the activities or operations of any Borrower or any other Loan Party or (d) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnitee is a party thereto and without regard to the exclusive or contributory negligence of any Indemnitees (all the foregoing, collectively, the “**Indemnified Liabilities**”); provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such Indemnified Liabilities resulted from (w) the gross negligence, fraud, bad faith or willful misconduct of such Indemnitee or of any of its Related Indemnified Persons as determined by a final, non-appealable judgment of a court of competent jurisdiction, (x) a material breach of any obligations under any Loan Document by such Indemnitee or of any of its Related Indemnified Persons as determined by a final, non-appealable judgment of a court of competent jurisdiction, (y) any dispute solely among Indemnitees or of any Related Indemnified Person other than any claims against an Indemnitee in its capacity or in fulfilling its role as the Administrative Agent, the Collateral Agent, a Lead Arranger, a Bookrunner or a similar role under the Facilities and other than any claims arising out of any act or omission of any Borrower or any of the Affiliates of the Borrowers or (z) any settlement entered into by any Indemnitee or of any Related Indemnified Person in connection with the foregoing without the Lead Borrower’s prior written consent (such consent not to be unreasonably withheld, delayed or conditioned), but, if such settlement occurs with the Lead Borrower’s written consent or if there is a final judgment for the plaintiff in any action or claim with respect to any of the foregoing, the Borrowers will be liable for such settlement or such final judgment and will indemnify and hold harmless each Indemnitee from and against any and all losses, claims, damages, liabilities and reasonable and documented out-of-pocket expenses by reason of such settlement or judgment in accordance with this Section

10.05. To the extent that the undertakings to indemnify and hold harmless set forth in this Section 10.05 may be unenforceable in whole or in part because they are violative of any applicable Laws or public policy, the Borrowers shall contribute the maximum portion that they are permitted to pay and satisfy under applicable Laws to the payment and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. Notwithstanding the foregoing, each Indemnitee shall be obligated to refund or return any and all amounts paid by the Borrowers under this Section 10.05 to such Indemnitee for any losses, claims, damages, liabilities and expenses to the extent such Indemnitee is not entitled to payment of such amounts in accordance with the terms hereof. No Indemnitee shall, without the Lead Borrower's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) consent to the entry of any judgment on or otherwise terminate any action referred to herein. The Borrowers shall not, without the prior written consent of any Indemnitee (which consent shall not be unreasonably withheld, delayed or conditioned), effect any settlement of any pending or threatened claim, litigation, investigation or proceeding in respect of which indemnity could have been sought hereunder by such Indemnitee unless such settlement (a) includes an unconditional release of such Indemnitee from all liability arising out of such claim, litigation, investigation or proceeding and (b) does not include any statement as to, or any admission of, fault, culpability, wrongdoing or a failure to act by or on behalf of such Indemnitee. Each Indemnitee shall give (subject to restrictions pursuant to attorney-client privilege, law, rule or regulation, or any obligation of confidentiality) such information and assistance to the Borrowers as the Lead Borrower may reasonably request in connection with any claim, litigation, investigation or proceeding in connection with any losses, claims, damages, liabilities and expenses, unless the Indemnitee reasonably determines there are conflicts of interest between the Borrowers and the Indemnitee. No Indemnitee or any Loan Party or Affiliate thereof shall be liable for any damages arising from the use by others of any information or other materials obtained through Intralinks®, Syndtrak® or other similar information transmission systems in connection with this Agreement, except to the extent resulting from the willful misconduct, fraud, bad faith or gross negligence of such Loan Party or Affiliate or such Indemnitee or any of its Related Indemnified Persons, as the case may be, as determined by a final and non-appealable judgment of a court of competent jurisdiction), nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date) (in each case, other than, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnitee to a third party and otherwise required to be indemnified by a Loan Party under this Section 10.05). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 10.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, equity holders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents are consummated. All amounts due under this Section 10.05 shall be paid within thirty (30) days after written demand therefor (together with backup documentation supporting such reimbursement request); *provided, however,* that such Indemnitee shall promptly refund such amount to the extent that there is a final non-appealable judicial determination that such Indemnitee was not entitled to indemnification rights with respect to such payment pursuant to the express terms of this Section 10.05. The agreements in this Section 10.05 shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. Each Indemnitee shall promptly notify the Lead Borrower upon receipt of written notice of any claim or threat to institute a claim; *provided* that any failure by any Indemnitee to give such notice shall not relieve the Borrowers from the obligation to indemnify such Indemnitee in accordance with the terms of this Section 10.05 except to the extent that the Borrowers are materially prejudiced by such failure. This Section 10.05 shall not apply to taxes except to the extent such amounts represent losses, claims, damages, etc. arising from a non-tax claim (including a value added tax or similar tax charged with respect to the supply of legal or other services).

Section 10.06 Marshaling; Payments Set Aside. None of the Administrative Agent or any Lender shall be under any obligation to marshal any assets in favor of the Loan Parties or any other party or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of the Borrowers is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff pursuant to Section 10.09, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law, Australian Insolvency Event in relation to an Australian Loan Party, or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees

to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to (x) for payments in Dollars, the Federal Funds Rate from time to time in effect and (y) for payments in Australian Dollars, the rate notified by the Administrative Agent to be that which expresses as a percentage rate per annum, the cost to the Administrative Agent of funding the payment from whatever source it may reasonably select.

Section 10.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither Holdings nor the Borrowers may, except as permitted by Section 7.04, assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative 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 subclause (b) of this Section, (ii) by way of participation in accordance with the provisions of subclause (d) of this Section, (iii) by way of pledge or assignment of a security interest subject to the restrictions of subclause (f) of this Section, or (iv) to an SPC in accordance with the provisions of subclause (g) of this Section 10.07. 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 subclause (d) of this Section and, to the extent expressly contemplated hereby, the Agent-Related Persons of each of the Administrative Agent and the Lenders and the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this Section 10.07(b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that 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 or Loans of any Class at the time owing to it 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 subclause (b)(i)(A) of this Section, the aggregate amount of the Commitment or, 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 the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than a Dollar Amount of \$5,000,000 (in the case of the Revolving Credit Facility), or a Dollar Amount of \$1,000,000 (in the case of a Term Loan), unless each of the Administrative Agent and, so long as no Event of Default under Section 8.01(a) or, solely with respect to the Lead Borrower, Section 8.01(f) has occurred and is continuing, the Lead Borrower otherwise consents, but in the case of the Borrowers, only if their consent is otherwise required for such assignment pursuant to clause (iii) below (each such consent not to be unreasonably withheld, conditioned or delayed); *provided, however,* that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met.

(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 subclause (b)(i)(B) of this Section and, in addition:

- (A) the consent of the Lead Borrower shall be required unless (1) an Event of Default under Section 8.01(a) or, solely with respect to the Lead Borrower, Section 8.01(f), has occurred and is continuing at the time of such assignment or (2) in the case of an assignment of a Term Loan only, such assignment is to a Term Lender, an Affiliate of a Term Lender or an Approved Fund of a Term Lender;
- (B) the consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed) shall be required, unless, in the case of an assignment of a Term Loan, such assignment is to a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; *provided, however,* that the consent of the Administrative Agent shall not be required for any assignment pursuant to Section 10.07(m) or to an Affiliated Lender, or a Person that upon effectiveness of an assignment would be an Affiliated Lender, pursuant to Section 10.07(h), *provided further*, that the consent of the Administrative Agent shall not be required in connection with any assignment pursuant to Section 2.14 provided such assignment is to an Eligible Assignee;
- (C) the consent of each L/C Issuer (such consent not to be unreasonably withheld, conditioned or delayed) shall be required in the case of an assignment of Revolving Credit Commitments or Revolving Credit Loans; and
- (D) the consent of the Swing Line Lender (such consent not to be unreasonably withheld, conditioned or delayed) shall be required in the case of an assignment of Revolving Credit Commitments or Revolving Loans.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption (which shall include, inter alia, a representation by the assignee that it is an Eligible Assignee and a representation that the assignee is not a Disqualified Institution) (A) via an electronic settlement system acceptable to the Administrative Agent or (B) if previously agreed with the Administrative Agent, mutually execute and deliver to the Administrative Agent an Assignment and Assumption, in each case, together with a processing and recordation fee of \$3,500; *provided* that the Administrative Agent may, in its sole discretion, elect to waive or reduce such processing and recordation fee in the case of any assignment. The Eligible Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire. All assignments shall be by novation unless otherwise agreed to, or required by, the Administrative Agent.

(v) No Assignments to Certain Persons. Notwithstanding anything to the contrary contained herein, no such assignment shall be made (A) to any Borrower or any of the other Subsidiaries except as permitted under Section 2.05(a)(v) or Section 10.07(m), (B) subject to the immediately preceding clause (A) above and subclause (h) below, to any Affiliates of the Borrowers, (C) to a natural person (or a holding company, investment vehicle or trust for, or owned and operated by or for the primary benefit of one or more natural persons), (D) to a Defaulting Lender (or any Affiliate of a Defaulting Lender) or (E) to a Disqualified Institution unless, in the case of this clause (E), consented to in writing by the Lead Borrower in its sole discretion (which consent shall be required regardless of whether a Default or Event of Default shall be continuing).

The Administrative Agent shall have the right, and the Borrowers hereby expressly authorize the Administrative Agent, to provide the list of Disqualified Institutions provided by the Lead Borrower and any updates thereto from time to time made in accordance with the definition of "Disqualified Institution" (collectively, the "**DQ List**") to each Lender requesting the same from the Administrative Agent and the Borrowers in connection with a proposed assignment or participation; *provided* that such list may be updated from time to time by the Lead Borrower in accordance with the definition of "Disqualified Institution" and the Administrative Agent shall not be under any obligation to notify any Lender of any such update. Notwithstanding anything to the contrary contained herein, the Administrative Agent shall not have any responsibility or liability for monitoring the DQ List for enforcing any

Borrower's or any Lender's compliance with the terms of any of the provisions set forth herein with respect to Disqualified Institutions or otherwise have any liability in connection with clause (b)(v)(E) above or the first parenthetical appearing in clause (d) below (to the extent such parenthetical relates to Disqualified Institutions), except to the extent of any liability determined by a court of competent jurisdiction in a final and non-appealable decision to have resulted from the bad faith, gross negligence or willful misconduct of the Administrative Agent.

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

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 the Administrative 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, including funding, with the consent of the Lead Borrower and the Administrative Agent, the applicable Pro Rata Share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full Pro Rata Share of all Loans and participations in Letters of Credit in accordance with its Pro Rata Share. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Laws 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.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section (and, in the case of an Affiliated Lender or a Person that, after giving effect to such assignment, would become an Affiliated Lender, subject to the requirements of clause (h) of this Section), 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 3.01, Section 3.04, Section 3.05, Section 10.04 and Section 10.05 with respect to facts and circumstances occurring prior to the effective date of such assignment and shall continue to be bound by Section 10.08); provided that, except to the extent otherwise 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, and the surrender by the assigning Lender of its Note(s) with respect to the applicable assigned rights and interests, the Borrowers (at their own 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 clause (d) of this Section.

(c) The Administrative Agent, acting solely for this purpose as anon-fiduciary agent of the Borrowers, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and related interest amounts) of the Loans, L/C Obligations (specifying the Unreimbursed Amounts), L/C Borrowings, Swing Line Loans, Swing Line Borrowings and amounts due under Section 2.03, owing to each Lender pursuant to the terms hereof from time to time (the "Register"). No assignment shall be effective unless it has been recorded in the Register pursuant to thisSection 10.07(c). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by any Borrower, any Agent and any Lender, at any reasonable time and from time to time upon reasonable prior notice. This Section 10.07(c) and Section 2.11 shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Section 163(f), Section 165(j), Section 871(h)(2), Section 881(c)(2) and Section 4701 of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).

(d) Any Lender may at any time, without the consent of, or notice to, the Lead Borrower, the Administrative Agent, Swing Line Lender, any other Lender or the L/C Issuers, sell participations to any Person (other than a natural person or any Borrower or any of the Affiliates of the Borrowers or any other Subsidiaries (other than Affiliated Debt Funds), a Defaulting Lender or a Disqualified Institution, to the extent the Disqualified Institution list has been made available to such Lender upon request, unless, with respect to a Disqualified Institution, consented to in writing by the Lead Borrower in its sole discretion (which consent shall be required regardless of whether a Default or Event of Default shall be continuing)) (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 (including such Lender’s participations in L/C Obligations and/or Swing Line Loans owing to it); *provided* that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; *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 clauses (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) of the first proviso to Section 10.01(a) that directly and adversely affects such Participant, in each case only to the extent that the affirmative vote of such Lender from which such Participant purchased the participation would be required under such Section. Subject to clause (e) of this Section, the Borrowers agree that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 (subject to the limitations and requirements of such section, including Sections 3.01(c)(i) and (c)(ii) or Section 3.01(c)(iii), as applicable and Section 3.06 and Section 3.07) (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(b) and (c) shall be delivered to the participating Lender). To the extent permitted by applicable Laws, each Participant also shall be entitled to the benefits of Section 10.09 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 2.13 as though it were a Lender.

(e) A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant 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. If a Lender (or any of its registered assigns) sells a participation pursuant to Section 10.07(d), that Lender (or its registered assign, as the case may be) that sells a participation shall (acting solely for this purpose as a non-fiduciary agent of the Borrowers) maintain a register complying with the requirements of Section 163(f), Section 165(j), Section 871(h), Section 881(c)(2) and Section 4701 of the Code and the Treasury regulations issued thereunder relating to the exemption from withholding for portfolio interest on which is entered the name and address of each Participant and the principal and interest amounts of each Participant’s interest in the Loans or other obligations under this Agreement (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, letters of credit 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, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(f) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or to any central bank having jurisdiction over such Lender; *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, any Lender (a “**Granting Lender**”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Lead Borrower (an “**SPC**”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof and (iii) such SPC and the applicable Loan or any applicable part thereof, shall be appropriately reflected, and shall become effective upon recording, in the Participant Register in the same manner as to participations as otherwise provided under Section 10.07(e). Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrowers under this Agreement (including their obligations under Section 3.01, 3.04 or 3.05), unless the grant to such SPC is made with the Lead Borrower’s prior written consent, which consent shall state that it is being given pursuant to Section 10.07(g) of this Agreement, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable (and such liabilities shall be retained by the Granting Lender), and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain and be liable as the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Lead Borrower and the Administrative Agent and with the payment of a processing fee of \$3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(h) Any Term Lender may, at any time, assign all or a portion of its rights and obligations solely with respect to Term Loans under this Agreement to a Person who is or will become, after such assignment, an Affiliated Lender or an Affiliated Debt Fund through (x) Dutch auctions or other offers to purchase open to all Term Lenders on a pro rata basis consistent with the procedures of the type described in Section 2.05(a)(v) or (y) open market purchase on a non-pro rata basis, in each case subject to the following limitations:

(i) Affiliated Lenders will not receive information provided solely to Lenders by the Administrative Agent or any Lender and will not be permitted to attend or participate in meetings attended solely by the Lenders and the Administrative Agent, other than the right to receive notices of prepayments and other administrative notices in respect of its Term Loans required to be delivered to Lenders pursuant to Article II;

(ii) each Affiliated Lender shall either (I) make a representation to the selling Lender that it does not possess material non-public information with respect to any Borrower and any of the other Subsidiaries or the securities of any of them that has not been disclosed to the Lenders generally (other than Lenders who elect not to receive such information) or (II) disclose that it cannot make such representation, in which case, the applicable assigning Lender shall be deemed to expressly re-make the acknowledgement set forth in the second succeeding paragraph in connection with such assignment;

(iii) after giving effect to such assignment, the aggregate principal amount of Term Loans held by Affiliated Lenders shall not exceed 25% of the principal amount of all Term Loans at such time outstanding, in each case, after giving effect to any substantially simultaneous cancellation thereof (such percentage, the “**Affiliated Lender Cap**”); *provided* that each of the parties hereto agrees and acknowledges that the Administrative Agent shall not be liable for any losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever incurred or suffered by any Person in connection with any compliance or non-compliance with this clause (h)(iii) or any purported assignment exceeding the Affiliated Lender Cap; and

(iv) as a condition to each assignment pursuant to this clause (h), the Administrative Agent shall have been provided a notice in the form of Exhibit E-2 to this Agreement in connection with each assignment to an Affiliated Lender or a Person that upon effectiveness of such assignment would constitute an Affiliated Lender, and (without limitation of the provisions of clause (iii) above) shall be under no obligation to record such assignment in the Register until three (3) Business Days after receipt of such notice.

Notwithstanding anything to the contrary contained herein, any Affiliated Lender or Affiliated Debt Fund that has purchased Term Loans pursuant to this clause (h) may, in its sole discretion but subject to the consent of the Lead Borrower, contribute, directly or indirectly, the principal amount of such Term Loans, plus all accrued and unpaid interest thereon, to the Borrowers (through any direct or indirect parent thereof) for the purpose of immediately cancelling and extinguishing such Term Loans and such contribution may be in exchange for debt or equity securities of the Borrowers (or any direct or indirect parent thereof) otherwise permitted by the terms of this Agreement to be issued or incurred at such time. Upon the date of such contribution, assignment or transfer, (x) the aggregate outstanding principal amount of Term Loans shall reflect such cancellation and extinguishing of the Term Loans then held by the Borrowers and (y) the Lead Borrower shall promptly provide notice to the Administrative Agent of such contribution of such Term Loans, and the Administrative Agent, upon receipt of such notice, shall reflect the cancellation and extinguishing of the applicable Term Loans in the Register.

Each Lender participating in any assignment to Affiliated Lenders acknowledges and agrees that in connection with such assignment, (1) the Affiliated Lenders then may have, and later may come into possession of material non-public information, (2) such Lender has independently and, without reliance on the Affiliated Lenders or any of their Subsidiaries, the Borrowers or any of their Subsidiaries, the Administrative Agent or any other Agent-Related Persons, made its own analysis and determination to participate in such assignment notwithstanding such Lender's lack of knowledge of the material non-public information, (3) none of the Affiliated Lenders or any of their Subsidiaries, the Borrowers or any of their Subsidiaries shall be required to make any representation that it is not in possession of material non-public information, (4) none of the Affiliated Lenders or its Affiliates, the Borrowers or any of their Subsidiaries or Affiliates, the Administrative Agent or any other Agent-Related Persons shall have any liability to such Lender, and such Lender hereby waives and releases, to the extent permitted by law, any claims such Lender may have against any Affiliated Lender or Affiliate thereof, the Borrowers or any of their Subsidiaries or Affiliates, the Administrative Agent and any other Agent-Related Persons, under applicable Laws or otherwise, with respect to the nondisclosure of the material non-public information and (5) that the material non-public information may not be available to the Administrative Agent or the other Lenders. Each Affiliated Lender and each Affiliated Debt Fund agrees to notify the Administrative Agent promptly (and in any event within ten (10) Business Days) if it acquires any Person who is also a Lender, and each Lender agrees to notify the Administrative Agent promptly (and in any event within ten (10) Business Days) if it becomes an Affiliated Lender or an Affiliated Debt Fund. Such notice shall contain the type of information required and be delivered to the same addressee as set forth in Exhibit E-2.

(i) Notwithstanding anything in Section 10.01 or the definition of "Required Lenders", "Required Term Lenders" or "Required Facility Lenders" to the contrary:

(i) for purposes of determining whether (as applicable) the Required Lenders, Required Term Lenders and/or Required Facility Lenders have (A) 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 Loan Party therefrom, or subject to Section 10.07(j), any plan of reorganization pursuant to the U.S. Bankruptcy Code, (B) otherwise acted on any matter related to any Loan Document, or (C) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, no Affiliated Lender shall have any right to consent (or not consent), otherwise act or direct or require the Administrative Agent or any Lender to take (or refrain from taking) any such action and all Term Loans held by such Affiliated Lenders shall be deemed to have been voted in the same proportion as the allocation of voting by Term Lenders that are not Affiliated Lenders for all purposes of calculating whether the Required Lenders, Required Term Lenders or Required Facility Lenders have taken any actions;

(ii) Affiliated Debt Funds may not in the aggregate account for more than 49.9% of the amounts set forth in the calculation of Required Lenders;

(iii) notwithstanding the above, Affiliated Lenders and Affiliated Debt Funds shall have the right to vote on any amendment, modification, waiver, consent or other action described in the first proviso to Section 10.01 or otherwise requiring the written consent of each Lender or of each Lender directly and adversely affected thereby; and

(iv) notwithstanding the above, no amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom may (x) directly and adversely affect any Affiliated Lender or Affiliated Debt Fund in its capacity as a Term Lender in a manner that is disproportionate to the effect on any Term Lender of the same Class or (y) deprive such Affiliated Lender or Affiliated Debt Fund of its Pro Rata Share of any payments to which it is entitled, in each case subject to the prior consent of such Affiliated Lender and/or Affiliated Debt Fund, as applicable.

(j) [Reserved].

(k) Notwithstanding anything to the contrary contained herein, any L/C Issuer or the Swing Line Lender may, upon thirty (30) days' notice to the Lead Borrower, the Administrative Agent and the Lenders, resign as an L/C Issuer or the Swing Line Lender, as the case may be, and any L/C Issuer or the Swing Line Lender may be removed at any time by the Lead Borrower by notice to the L/C Issuer, the Administrative Agent and the Lenders; *provided* that on or prior to the expiration of such 30-day period with respect to such resignation, the relevant L/C Issuer or the Swing Line Lender shall have identified a successor L/C Issuer or Swing Line Lender, as the case may be, acceptable to the Administrative Agent and the Lead Borrower in its sole discretion, willing to accept its appointment as successor L/C Issuer or successor Swing Line Lender, as the case may be. In the event of any such resignation or removal of an L/C Issuer or the Swing Line Lender, the Lead Borrower (with the consent of the Administrative Agent not to be unreasonably withheld, delayed or conditioned) shall be entitled to appoint from among the Lenders willing to accept such appointment a successor L/C Issuer or successor Swing Line Lender; *provided* that no failure by (x) the Lead Borrower to appoint or (y) the Lead Borrower or the Administrative Agent to accept the appointment of, any such successor shall affect the resignation or removal of the relevant L/C Issuer or Swing Line Lender, as the case may be, as expressly provided above. If an L/C Issuer resigns or is removed as an L/C Issuer, it shall retain all the rights and obligations of an L/C Issuer hereunder with respect to all Letters of Credit issued by it and outstanding as of the effective date of its resignation or removal as an L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Revolving Credit Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If the Swing Line Lender resigns or is removed as the Swing Line Lender, it shall retain all the rights and obligations of the Swing Line Lender hereunder with respect to all Swing Line Loans outstanding as of the effective date of its resignation or removal as the Swing Line Lender, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c).

(l) [Reserved].

(m) Any Lender may, so long as no Event of Default has occurred and is continuing, at any time, assign all or a portion of its rights and obligations with respect to Term Loans under this Agreement to Holdings, the Borrowers or any of the other Subsidiaries through (x) Dutch auctions or other offers to purchase open to all Lenders on a pro rata basis consistent with the procedures set forth in Section 2.05(a)(v) or (y) notwithstanding Sections 2.12 and 2.13 or any other provision in this Agreement, open market purchase on anon-pro rata basis; provided further that:

(i) upon such assignment, transfer or contribution, Holdings shall automatically be deemed to have contributed the principal amount of such Term Loans, plus accrued and unpaid interest thereon, to the Borrowers;

(ii) (a) the principal amount of such Term Loans, along with all accrued and unpaid interest thereon, shall be deemed automatically cancelled and extinguished on the date of such contribution, assignment or transfer, (b) the aggregate outstanding principal amount of Term Loans of the remaining Lenders shall reflect such cancellation and extinguishment and (c) Holdings, any Borrower or any of the other Subsidiaries, as applicable, shall promptly provide notice to the Administrative Agent of such contribution, assignment or transfer of such Term Loans, and the Administrative Agent, upon receipt of such notice, shall reflect the cancellation of the applicable Term Loans in the Register;

(iii) Holdings, the Borrowers or any of the other Subsidiaries that purchases any Term Loans pursuant to this clause (m) shall either (I) make a representation to the selling Lender that it does not possess material non-public information with respect to Holdings, the Borrowers and the other Subsidiaries or the securities of any of them that has not been disclosed to the Lenders generally (other than Lenders who elect not to receive such information) or (II) disclose that it cannot make such representation, in which case, the applicable assigning Lender shall be deemed to expressly re-make the acknowledgement set forth in the immediately succeeding paragraph in connection with such assignment; and

(iv) purchases of Term Loans pursuant to this Section 10.07(m) shall not be funded with the proceeds of Revolving Credit Loans or Swing Line Loans.

Each Lender participating in any assignment to Holdings, any Borrower or any other Subsidiary (including pursuant to Section 2.05(a)(v)) acknowledges and agrees that in connection with such assignment, (1) Holdings, the Borrowers and the other Subsidiaries then may have, and later may come into possession of material non-public information, (2) such Lender has independently and, without reliance on the Affiliated Lenders or any of their Subsidiaries, Holdings, the Borrowers or any of the other Subsidiaries, the Administrative Agent or any other Agent-Related Persons, made its own analysis and determination to participate in such assignment notwithstanding such Lender's lack of knowledge of the material non-public information, (3) none of Holdings, any Borrower or any of the other Subsidiaries shall be required to make any representation that it is not in possession of material non-public information, (4) none of Holdings, any Borrower or any of the other Subsidiaries, the Administrative Agent or any other Agent-Related Persons shall have any liability to such Lender, and such Lender hereby waives and releases, to the extent permitted by law, any claims such Lender may have against Holdings, any Borrower or any of the other Subsidiaries, the Administrative Agent and any other Agent-Related Persons, under applicable Laws or otherwise, with respect to the nondisclosure of the material non-public information and (5) that the material non-public information may not be available to the Administrative Agent or the other Lenders.

(n) The aggregate outstanding principal amount of the Term Loans of the applicable Class shall be deemed reduced by the full par value of the aggregate principal amount of the Term Loans purchased by, or contributed to (in each case, and immediately cancelled hereunder), the Borrowers pursuant to Section 10.07(h) or (m) and the principal repayment installments with respect to the Term Loans of such Class pursuant to Section 2.07(a)(i) or (a)(ii), as applicable, shall be reduced pro rata by the par value of the aggregate principal amount of Term Loans so purchased or contributed (and subsequently cancelled), with such reduction being applied solely to the Term Loans of the Lenders which sold such Term Loans.

Section 10.08 Confidentiality. Each of the Administrative Agent, the Collateral Agent and the Lenders agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective directors, officers, employees, legal counsel, independent auditors and other experts or agents who need to know such information in connection with the Transaction or the Loan Documents (or the transactions contemplated therein), are informed of the confidential nature of such Information and instructed to keep such Information confidential, (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), in which case, the Administrative Agent, the Collateral Agent and the Lenders agree to inform the Lead Borrower promptly thereof prior to such disclosure, unless such Person is prohibited by applicable Laws from so informing the Lead Borrower, or except in connection with any request as part of any regulatory audit or examination conducted by bank accountants or any governmental or regulatory authority exercising examination or regulatory authority, (c) to the extent required by applicable Laws or by any subpoena or similar legal process; *provided* that the Administrative Agent or such Lender, as applicable, agrees that it will notify the Lead Borrower promptly thereof, unless such notification is prohibited by law, rule or regulation, or except in connection with any request as part of any regulatory audit or examination conducted by accountants or any governmental or regulatory authority exercising examination or regulatory authority, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions at least as restrictive as those of this

Section 10.08. to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be an Additional Lender or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrowers and their obligations, (g) with the consent of the Lead Borrower or (h) to the extent such Information (i) is at the time of such disclosure, or becomes, publicly available other than as a result of a breach of this Section by such Person or any Person identified in clause (a) above, (ii) is at the time of such disclosure, or becomes, available to the Administrative Agent, any Lender, or any of their respective Affiliates on a non-confidential basis from a source other than Holdings, any Borrower or any of the other Subsidiaries, and which source is not known by such Agent or Lender, after due inquiry, to be subject to a confidentiality restriction in respect thereof in favor of any Borrower or any Affiliate of any Borrower or (iii) is independently developed by such Person without reliance upon the Information; *provided, however,* that (A) no disclosure shall be made to any Disqualified Institution unless such Person has previously become a Lender hereunder with the consent of the Lead Borrower (but only for so long as such Person does not cease being a Lender following the initial grant of such consent) or (B) to the extent the applicable list of Disqualified Institutions has previously been provided to such disclosing party, no disclosure shall be made to any other Disqualified Institution unless such Person has previously become a Lender hereunder with the consent of the Lead Borrower (but only for so long as such Person does not cease being a Lender following the initial grant of such consent). In addition, each of the Administrative Agent and the Collateral Agent may disclose the existence of this Agreement and information about this Agreement to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Facilities or market data collections, similar service providers to the lending industry and service providers to the Administrative Agent in connection with the administration and management of this Agreement and the other Loan Documents (it being understood that, prior to any such disclosure, such bureau, data collector or service provider shall undertake to preserve the confidentiality of any such information). To the extent permitted by section 275 of the PPSA, the parties agree to keep all information of the kind mentioned in section 275(1) of the PPSA confidential and not to disclose that information to any other person, other than to the extent permitted hereunder.

For purposes of this Section, "Information" means all information received from any Loan Party or any Subsidiary thereof (including, for the avoidance of doubt, their respective directors, officers, employees, members of management, consultants, representatives, agents and advisors) or in connection with an inspection of the books, records or properties of Holdings, any Borrower or any of the other Subsidiaries relating to any Loan Party or any Subsidiary thereof or their respective businesses; it being understood that all information received from Holdings, any Borrower or any other Subsidiary after the date hereof shall be deemed confidential unless such information is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so in accordance with its customary procedures if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent and the Lenders acknowledges that (a) the Information may include material non-public information concerning Holdings, any Borrower or any other Subsidiary, as the case may be, (b) it has policies and procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Laws, including United States Federal, state and foreign securities Laws, in accordance with its policies and procedures.

Section 10.09 Set-off. If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates and each L/C Issuer and each of its Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Administrative Agent to the fullest extent permitted by applicable Laws, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held (other than payroll, trust, tax, fiduciary, employee health and benefits, pension and 401(k) accounts) and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate or such L/C Issuer and its Affiliates, as the case may be, to or for the credit or the account of any Borrower or any other Loan Party against any and all of the Obligations (other than, with respect to any Guarantor, Excluded Swap Obligations of such Guarantor), irrespective of whether or not such Lender shall have made any demand under this Agreement or any other Loan Document and although such obligations of such Borrower or such Loan Party may be contingent or unmatured or denominated in a currency different from that of the applicable deposit or Indebtedness or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all

amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of [Section 2.19](#) and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the L/C Issuer(s), and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and its Affiliates under this Section are in addition to other rights and remedies (including other rights of set-off) that such Lender or its Affiliates may have. Each Lender and L/C Issuer agrees to notify the Lead Borrower and the Administrative Agent promptly after any such set-off and application made by such Lender or L/C Issuer, as the case may be; provided that the failure to give such notice shall not affect the validity of such set-off and application.

Section 10.10 **Interest Rate Limitation.** Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Laws (the “**Maximum Rate**”). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrowers. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Laws, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

Section 10.11 **Counterparts; Integration; Effectiveness.** This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to agency fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in [Section 4.01](#), this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic imaging (including in .pdf format) means shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 10.12 **Electronic Execution; Electronic Records.**

(a) The words “delivery,” “execute,” “execution,” “signed,” “signature,” and words of like import in any Loan Document or any other document executed in connection herewith shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act. For the avoidance of doubt, the authorization under this [Section 10.12\(a\)](#) may include, without limitation, use or acceptance by the Administrative Agent and each of the Secured Parties of a manually signed paper document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to this Agreement (each a “**Communication**”) which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention.

(b) The Borrowers hereby acknowledge the receipt of a copy of this Agreement and all other Loan Documents. The Administrative Agent and each Lender may, on behalf of the Borrowers, create a microfilm or optical disk or other electronic image of this Agreement and any or all of the other Loan Documents. The Administrative Agent and each Lender may store the electronic image of this Agreement and the other Loan Documents in its electronic form and then destroy the paper original as part of the Administrative Agent’s and each Lender’s normal business practices, with the electronic image deemed to be an original and of the same legal effect, validity and enforceability as the paper originals.

Section 10.13 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied (other than (i) unasserted contingent indemnification obligations as to which no claim has been asserted and (ii) Obligations under Secured Hedge Agreements and Obligations under Secured Cash Management Agreements) or any Letter of Credit shall remain outstanding (other than Letters of Credit which have been Cash Collateralized).

Section 10.14 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 10.15 GOVERNING LAW AND JURISDICTION.

(a) THIS AGREEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT SHALL, EXCEPT AS OTHERWISE PROVIDED IN CERTAIN OF THE COLLATERAL DOCUMENTS, BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

(b) HOLDINGS, EACH BORROWER, EACH AGENT AND EACH LENDER IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTION RELATING HERETO OR THERETO (EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN CERTAIN GUARANTY AND COLLATERAL DOCUMENTS), OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE BROUGHT, HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) HOLDINGS, EACH BORROWER, EACH AGENT AND EACH LENDER IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT 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 OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN CLAUSE (b) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

Section 10.16 **WAIVER OF RIGHT TO TRIAL BY JURY**. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HERETO OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 10.17 **Binding Effect**. This Agreement shall become effective when it shall have been executed by the Borrowers, Holdings and the Administrative Agent and the Administrative Agent shall have been notified by each Lender that each such Lender has executed it and thereafter shall be binding upon and inure to the benefit of each Borrower, Holdings, each Agent and each Lender and their respective successors and permitted assigns.

Section 10.18 **Lender Action**. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party under any of the Loan Documents or the Secured Hedge Agreements (including the exercise of any right of set-off, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent (which shall not be withheld in contravention of Section 9.04). The provision of this Section 10.18 is for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.

Section 10.19 **Acknowledgment Regarding any Supported QFCs**. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Contracts 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 the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

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

Section 10.20 **PATRIOT Act Notice.** Each Lender that is subject to the PATRIOT Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrowers that pursuant to the requirements of the PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the PATRIOT Act. The Borrowers shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the PATRIOT Act.

Section 10.21 **Service of Process.** EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. IN ADDITION, EACH AUSTRALIAN LOAN PARTY HEREBY APPOINTS THE LEAD BORROWER AS ITS AGENT FOR THE PURPOSE OF ACCEPTING SERVICE WITHIN THE STATE OF NEW YORK AND THE LEAD BORROWER HEREBY ACCEPTS SUCH APPOINTMENT. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 10.22 **No Advisory or Fiduciary Responsibility.** In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each of the Borrowers and Holdings acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Agents, the Lead Arrangers and the Bookrunners are arm's-length commercial transactions between Holdings, the Borrowers and their respective Affiliates, on the one hand, and the Agents, the Lead Arrangers and the Bookrunners, on the other hand, (B) each of Holdings and the Borrowers has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of Holdings and the Borrowers is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Agents, the Lead Arrangers and the Bookrunners are and have been, and each Lender is and has been, acting solely as a principal and, except as expressly agreed in writing by the relevant parties, have or has not been, are or is not, and will not be acting as an advisor, agent or fiduciary for Holdings, any Borrower or any of their respective Affiliates, or any other Person and (B) none of the Agents, the Lead Arrangers, the Bookrunners nor any Lender has any obligation to Holdings, any Borrower or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Agents, the Lead Arrangers, the Bookrunners, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of Holdings, the Borrowers and their respective Affiliates, and none of the Agents, the Lead Arrangers, the Bookrunners nor any Lender has any obligation to disclose any of such interests to Holdings, any Borrower or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrowers and Holdings hereby waives and releases any claims that it may have against the Agents, the Lead Arrangers, the Bookrunners or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 10.23 **Cashless Settlement.** Notwithstanding anything to the contrary contained in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Lead Borrower, the Administrative Agent and such Lender.

Section 10.24 **Acknowledgment and Consent to Bail-In of Affected Financial Institutions** Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected 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 the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and
- (b) the effects of any Bail-in Action on any such liability, including, if applicable:

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- (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or 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 the applicable Resolution Authority.

Section 10.25 Joint and Several Liability of Borrowers.

(a) All Borrowers shall be liable, on a joint and several basis, for all Obligations, including, without limitation, all amounts due to the Administrative Agent and Lenders under this Agreement and the other Loan Documents, regardless of which Borrower actually receives the Loans or other proceeds of the Obligations or the manner in which the Administrative Agent and Lenders account for such Loans or other Obligations on its books and records or for any other reason. The Obligations with respect to Loans made to, and Letters of Credit issued to, any Borrower, and the Obligations arising as a result of the joint and several liability of any Borrower hereunder, with respect to Loans made to, or Letter of Credit issued to, the other Borrowers hereunder, shall be separate and distinct obligations, but all such Obligations shall be primary obligations of all Borrowers. The Obligations arising as a result of the joint and several liability of any Borrower hereunder with respect to Loans or other Obligations shall, to the fullest extent permitted by applicable Law, be unconditional irrespective of (i) the validity or enforceability, avoidance or subordination of the Obligations of the other Borrowers or of any promissory note or other document evidencing all or any part of the Obligations of the other Borrowers, (ii) any incapacity or lack of power, authority or legal personality of any other Borrower or other Person, (iii) the absence of any attempt to collect the Obligations from the other Borrowers or any other security therefor, or the absence of any other action to enforce or failure to realize the full value of the same, (iv) any amendment (however fundamental), replacement, variation, assignment, termination and/or the waiver, consent, extension, forbearance or granting of any indulgence by the Administrative Agent or Lenders with respect to any provisions of any instrument evidencing the Obligations of the other Borrowers, or any part thereof, or any other agreement now or hereafter executed by the other Borrowers and delivered to the Administrative Agent or Lenders, (v) the failure by the Administrative Agent, Lenders or any other Person to take any steps to perfect and maintain its Lien in, or to preserve its rights and maintain its security or collateral for the Obligations of the other Borrowers, (vi) the election of the Administrative Agent, Lenders or any other Person in any proceeding instituted under applicable Debtor Relief Laws, of the application of Section 1111(b)(2) of the Bankruptcy Code of the United States (or equivalent provision of Australian law), (vii) the disallowance of all or any portion of the claim(s) of the Administrative Agent, Lenders or any other Person for the repayment of the Obligations of the other Borrowers under Section 502 of the Bankruptcy Code of the United States (or equivalent provision of Australian law), (viii) any insolvency, liquidation, administration or similar procedure or corporate action in respect of any other Borrower and/or any legal proceedings or procedures by any of the other Borrowers' creditors or (ix) any other circumstances which might constitute a legal or equitable discharge or defense of the other Borrowers. With respect to the Obligations arising as a result of the joint and several liability of a Borrower hereunder with respect to Loans, Letters of Credit or other Obligations, each Borrower waives, until the Termination Date has occurred, any right to enforce any right of subrogation or any remedy which the Administrative Agent, Lenders or any other Person now has or may hereafter have against any other Borrower, any endorser or any guarantor of all or any part of the Obligations, and any benefit of, and any right to participate in, any security or collateral given to the Administrative Agent, Lenders or any other Person. Upon any Event of Default and for so long as the same is continuing and in accordance with this Agreement, the Administrative Agent and Lenders may proceed directly and at once, against any Borrower to collect and recover the full amount, or any portion of the Obligations, without first proceeding against the other Borrowers or any other Person, or against any security or collateral for the Obligations. Each Borrower consents and agrees that none of the Administrative Agent, Lenders or any other Person shall be under any obligation to marshal any assets in favor of Borrowers or any other Person or against or in payment of any or all of the Obligations.

(b) Each Borrower expressly waives any and all rights of subrogation, reimbursement, indemnity, exoneration, contribution of any other claim which such Borrower may now or hereafter have against the other Borrowers or any other Person directly or contingently liable for the Obligations hereunder, or against or with respect to the other Borrowers' property (including, without limitation, any property which is Collateral for the Obligations), arising from the existence or performance of this Agreement until the Termination Date has occurred.

Section 10.26 **Judgment Currency**. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of each Loan Party in respect of any such sum due from it to the Administrative Agent or any Lender hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "**Agreement Currency**"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent or any Lender from any Loan Party in the Agreement Currency, such Loan Party agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent or any Lender in such currency, the Administrative Agent or such Lender, as the case may be, agrees to return the amount of any excess to such Loan Party (or to any other Person who may be entitled thereto under applicable Law).

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

A.K.A. BRANDS INTERMEDIATE HOLDING CORP.,
as Holdings

By: /s/ Jill Ramsey
Name: Jill Ramsey
Title: President and Chief Executive Officer

A.K.A. BRANDS MIDCO HOLDING CORP.,
as the Lead Borrower

By: /s/ Jill Ramsey
Name: Jill Ramsey
Title: President and Chief Executive Officer

Executed by **PRINCESS POLLY ONLINE PTY LTD**
ACN 169 210 520 in accordance with section 127 of the
Corporations Act 2001 (Cth) by:

By: /s/ Wesley Bryett
Name: Wesley Bryett
Title: Director

By: /s/ Jill Ramsey
Name: Jill Ramsey
Title: Director

Executed by **PETAL & PUP PTY LTD ACN 613 271 220**
in accordance with section 127 of the *Corporations Act 2001*
(Cth) by:

By: /s/Wesley Bryett
Name: Wesley Bryett
Title: Director

By: /s/ Jill Ramsey
Name: Jill Ramsey
Title: Director

Signature Page to Credit Agreement

Executed by **TF APPAREL PTY LTD ACN 140 259 918** in
accordance with section 127 of the *Corporations Act 2001*
(Cth) by:

By: /s/ Simon Beard
Name: Simon Beard
Title: Director

By: /s/ Jill Ramsey
Name: Jill Ramsey
Title: Director

**A.K.A. BRANDS, INC.
PRINCESS POLLY USA, INC.**

By: /s/ Jill Ramsey
Name: Jill Ramsey
Title: President and Chief Executive Officer

**REBDOLLS INC
CULTURE KINGS USA, INC.
PETAL & PUP USA, INC.**

By: /s/ Jill Ramsey
Name: Jill Ramsey
Title: Secretary

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KEYBANK NATIONAL ASSOCIATION,
as Administrative Agent, Collateral Agent and a Lender

By: /s/ Ryan Stilphen
Name: Ryan Stilphen
Title: Director

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WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Lender

By: /s/ John Matthew Godwin
Name: John Matthew Godwin
Title: Vice President

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BANK OF AMERICA, N.A.,
as Lender

By: /s/ Matt Powers
Name: Matt Powers
Title: Director

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CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as Lender

By: /s/ Vipul Dhadda
Name: Vipul Dhadda
Title: Authorized Signatory

By: /s/ Cassandra Droogan
Name: Cassandra Droogan
Title: Authorized Signatory

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JEFFERIES FINANCE LLC,
as Lender

By: /s/ Brian Buoye
Name: Brian Buoye
Title: Managing Director

Signature Page to Credit Agreement

a.k.a. Brands Holding Corp. Announces Pricing of Initial Public Offering

SAN FRANCISCO – September 21, 2021 – a.k.a. Brands Holding Corp. (“a.k.a. Brands” or the “Company”) today announced the pricing of its initial public offering of its common stock. The Company is offering 10,000,000 shares of its common stock at a price to the public of \$11.00 per share for gross proceeds of \$110,000,000. a.k.a. Brands shares are expected to begin trading on the New York Stock Exchange (“NYSE”) on September 22, 2021, under the symbol “AKA.” The initial public offering is expected to close on September 24, 2021, subject to the satisfaction of customary closing conditions.

In addition, the underwriters will have a 30-day option to purchase an additional 1,500,000 shares of common stock from the Company at the initial public offering price, less underwriting discounts and commissions.

a.k.a. Brands will receive net proceeds of approximately \$96.4 million after deducting underwriting discounts and commissions and estimated expenses and intends to use the net proceeds received from this offering, together with borrowings under the Company’s new senior secured credit facility, to (i) repay in full all outstanding amounts under the Company’s existing senior secured credit facility and the Company’s existing subordinated notes and (ii) repurchase minority interests in Petal & Pup. The Company intends to use any remaining net proceeds for working capital and general corporate purposes, including possible future acquisitions.

BofA Securities, Credit Suisse and Jefferies are acting as joint lead book-running managers for the offering. Wells Fargo Securities, KeyBanc Capital Markets, Cowen, Piper Sandler and Truist Securities are also acting as book-running managers for the offering. Telsey Advisory Group and Loop Capital Markets are acting as co-managers for the offering.

The offering will be made only by means of a prospectus. Copies of the final prospectus relating to this offering, when available, may be obtained from:

- BofA Securities at BofA Securities, Attention: Prospectus Department, NC1-004-03-43, 200 North College Street, 3rd floor, Charlotte NC 28255-0001, by telephone at (800)-294-1322 or by email at dg.prospectus_requests@bofa.com
- Credit Suisse at Credit Suisse Securities (USA) LLC, Attention: Prospectus Department, 6933 Louis Stephens Drive, Morrisville, North Carolina 27560, by telephone at (800)-221-1037 or by email at usa.prospectus@credit-suisse.com
- Jefferies at Jefferies LLC, Attention: Equity Syndicate Prospectus Department, 520 Madison Avenue, 2nd Floor, New York, NY 10022, by telephone at (877)-821-7388 or by email at prospectus_department@jefferies.com.

A registration statement on Form S-1 relating to these securities has been filed with the U.S. Securities and Exchange Commission and became effective on September 21, 2021. Copies of the registration statement can be accessed through the Securities and Exchange Commission’s website at www.sec.gov. This press release shall not constitute an offer to sell or the solicitation of an offer to buy these securities, nor shall there be any sale of these securities in any state or jurisdiction in which such an offer, solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction. Any offers, solicitations or offers to buy, or any sales of securities will be made in accordance with the registration requirements of the Securities Act of 1933, as amended.

About a.k.a. Brands

Established in 2018, a.k.a. Brands is a global platform of diversified, direct-to-consumer, digitally native fashion brands. Built for the next generation of consumers, each brand in the a.k.a. portfolio targets a distinct audience, introduces inspiring content, curates high-quality merchandise and creates authentic relationships with their customers. a.k.a. Brands leverages a flexible, asset-light operating model to help each brand accelerate its growth, scale in new markets and enhance their profitability. Current brands in the a.k.a. Brands portfolio include Princess Polly, Culture Kings, Petal & Pup and Rebdolls.

Contact:

Emily Goldberg Schwartz
media@aka-brands.com