

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-Q

(Mark One)

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

For the quarterly period ended May 2, 2020

or

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

For the transition period from _____ to _____

Commission File Number: 001-15059

NORDSTROM, INC.

(Exact name of registrant as specified in its charter)

Washington

(State or other jurisdiction of
incorporation or organization)

91-0515058

(I.R.S. Employer
Identification No.)

1617 Sixth Avenue, Seattle, Washington 98101

(Address of principal executive offices)

206-628-2111

(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common stock, without par value	JWN	New York Stock Exchange

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

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.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes No

Common stock outstanding as of May 30, 2020: 157,032,858 shares

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FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, which are subject to the “safe harbor” created by those sections. Forward-looking statements are based on our management’s beliefs and assumptions and on information currently available to our management. In some cases, you can identify forward-looking statements by terms such as “may,” “will,” “should,” “could,” “goal,” “would,” “expect,” “plan,” “anticipate,” “believe,” “estimate,” “project,” “predict,” “potential,” “pursue,” “going forward,” and similar expressions intended to identify forward-looking statements. These statements involve known and unknown risks, uncertainties and other factors, which may cause our actual results, performance, time frames or achievements to be materially different from any future results, performance, time frames or achievements expressed or implied by the forward-looking statements. These risks, uncertainties and other factors include, but are not limited to, our anticipated financial outlook for the fiscal year ending January 30, 2021, trends in our operations and the following:

Strategic and Operational

- the impacts of the recent novel coronavirus (“COVID-19”) global pandemic and the significant civil unrest, looting and rioting in several urban centers on our business and results, which effects may include the exacerbation of any of the risks discussed below,
- successful execution of our customer strategy to provide the best possible service, product and experience, both in stores and online,
- timely and effective implementation and execution of our evolving business model, including:
 - scaling our market strategy, which consists of the integration of our physical and digital assets, development of new supply chain capabilities and timely delivery of products,
 - our merchandise strategy, including our ability to offer compelling assortments,
 - enhancing our platforms and processes to allow for more flexible inventory management,
- our ability to effectively allocate and scale our marketing strategies and resources between The Nordy Club, advertising and promotional campaigns,
- our ability to respond to the evolving retail environment and our development of new market strategies and customer offerings, which result from new fashion trends, environmental considerations and our customers’ changing expectations of service and experience in stores and online,
- our ability to properly balance our investments in existing and new store locations, technology and supply chain facilities, including the expansion of our market strategy,
- successful execution of our information technology strategy, including engagement with third-party service providers,
- our ability to effectively utilize internal and third-party data in strategic planning and decision making,
- our ability to maintain or expand our presence, including timely completion of construction associated with new, relocated and remodeled stores and Supply Chain Network facilities, as well as, any potential store closures, all of which may be impacted by third parties, consumer demand and other natural or man-made disruptions,
- efficient and proper allocation of our capital resources,
- effective inventory management processes and systems, fulfillment and supply chain processes and systems, our ability to prevent or mitigate disruptions in our supply chain and our ability to control costs,
- the impact of any systems or network failures, cybersecurity and/or security breaches, including any security breach of our systems or those of a third-party provider that results in the theft, transfer or unauthorized disclosure of customer, employee or Company information or compliance with information security and privacy laws and regulations in the event of such an incident,
- our ability to safeguard our reputation and maintain relationships with our vendors, third-party service providers and landlords
- our ability to maintain relationships with and motivate our employees and to effectively attract, develop and retain our top talent and future leaders,
- our ability to realize the expected benefits, respond to potential risks and appropriately manage costs associated with our credit card revenue sharing program,
- market fluctuations, increases in operating costs, exit costs and overall liabilities and losses associated with owning and leasing real estate,
- potential goodwill impairment charges, future impairment charges, fluctuations in the fair values of reporting units or of assets in the event projected financial results are not achieved within expected time frames or our strategic direction changes,
- compliance with debt and operating covenants, availability and cost of credit, changes in our credit rating and changes in interest rates, and our ability to maintain an investment grade credit rating,
- the actual timing, price, manner and amounts of future share repurchases, dividend payments, or share issuances, if any,

Economic and External

- the length and severity of epidemics or pandemics, such as the COVID-19 pandemic, or other catastrophic events, and the related impact on customer behavior, store and online operations and supply chain functions, as well as our future consolidated financial position, results of operations and cash flows,
- the impact of the seasonal nature of our business and cyclical customer spending,
- the impact of economic and market conditions and the resultant impact on consumer spending and credit patterns,
- the impact of economic, environmental or political conditions in the U.S. and Canada and countries where our third-party vendors operate,

- weather conditions, natural disasters, epidemics, national security or other market and supply chain disruptions, or the effects of tariffs, or the prospects of these events and the resulting impact on consumer spending patterns or information technology systems and communications,

Legal and Regulatory

- our compliance with applicable domestic and international laws, regulations and ethical standards, including those related to employment and tax, information security and privacy, consumer credit and the outcome of any claims and litigation and resolution of such matters,
- the impact of the current regulatory environment and financial system, health care and tax reforms,
- the impact of changes in accounting rules and regulations, changes in our interpretation of the rules or regulations, or changes in underlying assumptions, estimates or judgments,
- the impact of claims, litigation and regulatory investigations, including those related to information security, privacy and consumer credit.

These and other factors, including those factors we discussed in our [Form 8-K](#) filed with the SEC on April 8, 2020, could affect our financial results and cause our actual results to differ materially from any forward-looking information we may provide. Given these risks, uncertainties and other factors, you should not place undue reliance on these forward-looking statements. Also, these forward-looking statements represent our estimates and assumptions only as of the date of this filing. You should read this Quarterly Report on Form 10-Q completely and with the understanding that our actual future results may be materially different from what we expect. We hereby qualify our forward-looking statements by these cautionary statements. Except as required by law, we assume no obligation to update these forward-looking statements publicly, or to update the reasons actual results could differ materially from those anticipated in these forward-looking statements, even if new information becomes available in the future.

All references to “Nordstrom,” “we,” “us,” “our,” or the “Company” mean Nordstrom, Inc. and its subsidiaries.

In addition, statements that “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the filing date of this Quarterly Report on Form 10-Q, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and investors are cautioned not to unduly rely upon these statements.

DEFINITIONS

The following table includes definitions of Nordstrom commonly used terms:

Term	Definition
2019 Plan	2019 Equity Incentive Plan
2019 Annual Report	Annual Report on Form 10-K filed on March 20, 2020
Adjusted EBITDA	Adjusted earnings before interest, income taxes, depreciation and amortization (a non-GAAP financial measure)
Adjusted EBITDAR	Adjusted earnings before interest, income taxes, depreciation, amortization and rent, as defined by our Revolver covenant (a non-GAAP financial measure)
Adjusted ROIC	Adjusted return on invested capital (a non-GAAP financial measure)
ASC	Accounting Standards Codification
ASU	Accounting Standards Update
CARES Act	Coronavirus Aid, Relief and Economic Security Act
CODM	Chief operating decision maker
COVID-19	Novel coronavirus
Digital sales	Online and digitally-assisted store sales, which include Online Order Pickup, Ship to Store and Style Board, a digital selling tool
EBIT	Earnings (Loss) before interest and income taxes
EPS	Earnings per share
ESPP	Employee Stock Purchase Plan
Exchange Act	Securities Exchange Act of 1934, as amended
Express Services	Full-Price order pickups and returns offered at certain Nordstrom Rack stores
FASB	Financial Accounting Standards Board
First quarter of 2020	13 fiscal weeks ending May 2, 2020
First quarter of 2019	13 fiscal weeks ending May 4, 2019
Fiscal year 2020	52 fiscal weeks ending January 30, 2021
Fiscal year 2019	52 fiscal weeks ending February 1, 2020
FLS	Full-line stores
Full-Price	Nordstrom U.S. full-line stores, Nordstrom.com, Canada, Trunk Club, Jeffrey and Nordstrom Local
GAAP	Generally accepted accounting principles
Generational Investments	NRHL, Canada, Trunk Club and Nordstrom NYC
Gross profit	Net sales less cost of sales and related buying and occupancy costs
Inventory turnover rate	Trailing 4-quarter cost of sales and related buying and occupancy costs divided by the trailing 4-quarter average inventory
Lease Standard	ASU No. 2016-02, Leases, and all related amendments (ASC 842)
Leverage Ratio	Ratio of adjusted debt to earnings before interest, income taxes, depreciation, amortization and rent (a non-GAAP financial measure)
MD&A	Management's Discussion and Analysis of Financial Condition and Results of Operations
Nordstrom Local	Nordstrom Local service hubs, which offer Full-Price order pickups, returns, alterations and other services
Nordstrom NYC	Our New York City flagship FLS, including the Men's location
The Nordy Club	Our customer loyalty program enhanced in October 2018
NRHL	Nordstromrack.com/HauteLook
NYSE	New York Stock Exchange
Off-Price	Nordstrom U.S. Rack stores, Nordstromrack.com/HauteLook and Last Chance clearance stores
Operating Lease Cost	Fixed rent expense, including fixed common area maintenance expense, net of developer reimbursement amortization
PCAOB	Public Company Accounting Oversight Board (United States)
Property incentives	Developer and vendor reimbursements
PSU	Performance share unit
Revolver	Senior revolving credit facility
ROU asset	Operating lease right-of-use asset
RSU	Restricted stock unit
SEC	Securities and Exchange Commission
SERP	Unfunded defined benefit Supplemental Executive Retirement Plan
Secured Notes	8.750% senior secured notes due May 2025
SG&A	Selling, general and administrative
Supply Chain Network	Fulfillment centers that primarily process and ship orders to our customers, distribution centers that primarily process and ship merchandise to our stores and other facilities and omni-channel centers that both fulfill customer orders and ship merchandise to our stores
TD	Toronto-Dominion Bank, N.A.

PART I — FINANCIAL INFORMATION

Item 1. Financial Statements (Unaudited).

NORDSTROM, INC. CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS (Amounts in millions except per share amounts) (Unaudited)

	Quarter Ended	
	May 2, 2020	May 4, 2019
Net sales	\$2,026	\$3,349
Credit card revenues, net	93	94
Total revenues	2,119	3,443
Cost of sales and related buying and occupancy costs	(1,810)	(2,228)
Selling, general and administrative expenses	(1,122)	(1,138)
(Loss) earnings before interest and income taxes	(813)	77
Interest expense, net	(34)	(24)
(Loss) earnings before income taxes	(847)	53
Income tax benefit (expense)	326	(16)
Net (loss) earnings	(\$521)	\$37
(Loss) earnings per share:		
Basic	(\$3.33)	\$0.24
Diluted	(\$3.33)	\$0.23
Weighted-average shares outstanding:		
Basic	156.4	155.0
Diluted	156.4	156.2

The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these financial statements.

NORDSTROM, INC. CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE EARNINGS (Amounts in millions) (Unaudited)

	Quarter Ended	
	May 2, 2020	May 4, 2019
Net (loss) earnings	(\$521)	\$37
Foreign currency translation adjustment	(24)	(9)
Post retirement plan adjustments, net of tax	2	—
Comprehensive net (loss) earnings	(\$543)	\$28

The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these financial statements.

NORDSTROM, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(Amounts in millions)
(Unaudited)

	May 2, 2020	February 1, 2020	May 4, 2019
Assets			
Current assets:			
Cash and cash equivalents	\$1,355	\$853	\$448
Accounts receivable, net	154	179	233
Merchandise inventories	1,489	1,920	2,006
Prepaid expenses and other	669	278	271
Total current assets	3,667	3,230	2,958
Land, property and equipment (net of accumulated depreciation of \$6,683, \$6,995 and \$6,678)	3,974	4,179	3,963
Operating lease right-of-use assets	1,722	1,774	1,833
Goodwill	249	249	249
Other assets	357	305	335
Total assets	\$9,969	\$9,737	\$9,338
Liabilities and Shareholders' Equity			
Current liabilities:			
Borrowings under revolving line of credit	\$800	\$—	\$—
Accounts payable	1,125	1,576	1,619
Accrued salaries, wages and related benefits	280	510	315
Current portion of operating lease liabilities	243	244	237
Other current liabilities	1,351	1,190	1,222
Current portion of long-term debt	—	—	499
Total current liabilities	3,799	3,520	3,892
Long-term debt, net	3,264	2,676	2,177
Non-current operating lease liabilities	1,836	1,875	1,951
Other liabilities	673	687	667
Commitments and contingencies (Note 5)			
Shareholders' equity:			
Common stock, no par value: 1,000 shares authorized; 157.0, 155.6 and 154.6 shares issued and outstanding	3,148	3,129	3,067
Accumulated deficit	(2,661)	(2,082)	(2,370)
Accumulated other comprehensive loss	(90)	(68)	(46)
Total shareholders' equity	397	979	651
Total liabilities and shareholders' equity	\$9,969	\$9,737	\$9,338

The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these financial statements.

NORDSTROM, INC.
CONDENSED CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
(Amounts in millions except per share amounts)
(Unaudited)

	Quarter Ended	
	May 2, 2020	May 4, 2019
Common stock		
Balance, beginning of period	\$3,129	\$3,048
Issuance of common stock under stock compensation plans	11	10
Stock-based compensation	8	9
Balance, end of period	\$3,148	\$3,067
Accumulated deficit		
Balance, beginning of period	(\$2,082)	(\$2,138)
Cumulative effect of adopted accounting standards	—	(25)
Net (loss) earnings	(521)	37
Dividends	(58)	(58)
Repurchase of common stock	—	(186)
Balance, end of period	(\$2,661)	(\$2,370)
Accumulated other comprehensive loss		
Balance, beginning of period	(\$68)	(\$37)
Other comprehensive loss	(22)	(9)
Balance, end of period	(\$90)	(\$46)
Total	\$397	\$651
Dividends per share	\$0.37	\$0.37

The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these financial statements.

NORDSTROM, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Amounts in millions)
(Unaudited)

	Quarter Ended	
	May 2, 2020	May 4, 2019
Operating Activities		
Net (loss) earnings	(\$521)	\$37
Adjustments to reconcile net (loss) earnings to net cash used in operating activities:		
Depreciation and amortization expenses and other, net	178	165
Asset impairment	117	—
Right-of-use asset amortization	44	43
Deferred income taxes, net	(54)	18
Stock-based compensation expense	13	20
Change in operating assets and liabilities:		
Accounts receivable	25	(2)
Merchandise inventories	228	(89)
Prepaid expenses and other assets	(393)	(12)
Accounts payable	(292)	181
Accrued salaries, wages and related benefits	(227)	(266)
Other current liabilities	167	(74)
Lease liabilities	(65)	(59)
Other liabilities	2	7
Net cash used in operating activities	(778)	(31)
Investing Activities		
Capital expenditures	(131)	(249)
Other, net	5	1
Net cash used in investing activities	(126)	(248)
Financing Activities		
Proceeds from revolving line of credit	800	—
Proceeds from long-term borrowings	600	—
Increase in cash book overdrafts	83	40
Cash dividends paid	(58)	(58)
Payments for repurchase of common stock	—	(210)
Proceeds from issuances under stock compensation plans	11	10
Tax withholding on share-based awards	(8)	(12)
Other, net	(11)	—
Net cash provided by (used in) financing activities	1,417	(230)
Effect of exchange rate changes on cash and cash equivalents	(11)	—
Net increase (decrease) in cash and cash equivalents	502	(509)
Cash and cash equivalents at beginning of period	853	957
Cash and cash equivalents at end of period	\$1,355	\$448
Supplemental Cash Flow Information		
Cash paid during the period for:		
Income taxes, net	\$—	\$8
Interest, net of capitalized interest	34	31

The accompanying Notes to Condensed Consolidated Financial Statements are an integral part of these financial statements.

NORDSTROM, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollar and share amounts in millions except per share, per option and per unit amounts)
(Unaudited)

NOTE 1: BASIS OF PRESENTATION

The accompanying Condensed Consolidated Financial Statements include the balances of Nordstrom, Inc. and its subsidiaries. All intercompany transactions and balances are eliminated in consolidation. The interim Condensed Consolidated Financial Statements have been prepared on a basis consistent in all material respects with the accounting policies described and applied in our 2019 Annual Report and reflect all adjustments of a normal recurring nature that are, in management's opinion, necessary for the fair presentation of the results of operations, financial position and cash flows for the periods presented.

The Condensed Consolidated Financial Statements as of and for the periods ended May 2, 2020 and May 4, 2019 are unaudited. The Condensed Consolidated Balance Sheet as of February 1, 2020 has been derived from the audited Consolidated Financial Statements included in our 2019 Annual Report. The interim Condensed Consolidated Financial Statements should be read together with the Consolidated Financial Statements and related footnote disclosures contained in our 2019 Annual Report.

Our business, like that of other retailers, is subject to seasonal fluctuations. Our sales are typically higher during our Anniversary Sale in July and the holidays in the fourth quarter. As a result of COVID-19, the Anniversary Sale has moved to August in 2020. Results for any one quarter may not be indicative of the results that may be achieved for a full fiscal year.

Use of Estimates

The preparation of financial statements in conformity with GAAP in the U.S. requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses, and disclosure of contingent assets and liabilities during the reporting period. Uncertainties regarding such estimates and assumptions are inherent in the preparation of financial statements and actual results may differ from these estimates and assumptions. Our most significant accounting judgments and estimates include leases, revenue recognition, inventory valuation, long-lived asset recoverability, goodwill impairment and income taxes, all of which involve assumptions about future events. As a result of COVID-19, we may be unable to accurately predict the impact of the pandemic going forward and as a result our estimates may change in the near term. See below for areas that required more judgments and estimates as a result of COVID-19.

Revenue Recognition

We reduce sales and cost of sales by an estimate of our future customer merchandise returns, which is calculated based on historical return patterns, and record a sales return allowance and an estimated return asset. We record the impact of the sales return allowance in our separate Full-Price, Off-Price and digital sales metrics. The majority of our returns from both digital and physical sales come through our stores. With the temporary closure of our stores beginning March 17, 2020, customers are generally not able to return goods in our stores, impacting the expected timing of returns. As a result, our estimates of future returns require more judgment and estimates and actual returns may differ from our historical return rates.

Merchandise Inventory

Under our retail method of inventory accounting, we adjust our inventory and costs of sales for retail inventory markdowns taken on the selling price. Our estimated markdown reserves increased approximately \$75 as of May 2, 2020, compared to the prior year, as a result of the temporary closure of our stores beginning on March 17, 2020, and the impact on demand from COVID-19. Markdown estimates may be more volatile as we consider current and anticipated demand, customer preferences, age of merchandise, fashion trends and the current promotional environment.

Long-Lived Assets

As we optimize our mix of physical and digital assets to align with longer-term customer trends, we permanently closed 16 FLS. As part of the closures, and when facts and circumstances indicate that the carrying values of buildings, equipment and ROU assets may be impaired, we compare the carrying value to the related projected future cash flows, among other quantitative and qualitative analysis. These projections are inherently subject to uncertainties and while we believe the inputs and assumptions utilized in our future cash flows are reasonable, our estimates may change in the near term based on our future performance.

We incurred non-cash impairment charges on long-lived tangible and ROU assets, primarily associated with the FLS closures, to adjust the carrying value to its estimated fair value. The following table provides details related to asset impairment charges as a result of COVID-19:

	May 2, 2020
Long-lived asset impairment ¹	\$94
Operating lease ROU asset impairment ¹	23
Total asset impairment	\$117

¹ As of May 2, 2020, the carrying value of the applicable long-lived and operating lease ROU assets after impairment was \$15 and \$6.

These charges are included in our Retail segment SG&A expense on the Condensed Consolidated Statement of Earnings.

NORDSTROM, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollar and share amounts in millions except per share, per option and per unit amounts)
(Unaudited)

Goodwill Impairment

We review our goodwill annually in the fourth quarter or when circumstances indicate that the carrying value may exceed fair value. Our most recently completed goodwill impairment analyses in the fourth quarter of 2019 indicated significant excess fair values over carrying values. After performing both qualitative and quantitative analyses, including review of future long-term revenue and cash flow assumptions, we concluded a triggering event requiring us to accelerate our annual goodwill impairment analysis did not occur, as we still expect any potential change in fair value to exceed carrying value. As a result, we did not record a goodwill impairment charge in the first quarter of 2020.

CARES Act

On March 27, 2020 the CARES Act was signed into law, providing payroll tax credits for employee retention, deferral of payroll taxes, and several income tax provisions including modifications to the net interest deduction limitation, changes to certain property depreciation and allows for carryback of certain operating losses.

We have estimated the impacts of the CARES Act in accordance with our overall approach for determining our income tax provision that uses an estimated annual effective tax rate based on our best estimates and adjusts for discrete taxable events that occur during the quarter. As a result, we will carryback our 2020 US Federal operating loss and recover taxes previously paid at the applicable 35% tax rate rather than the current rate of 21%. Our estimated annual effective tax rate reflects this benefit and is the primary driver for the rate increase when compared to the same period in 2019. As a result, we recorded \$275 in taxes receivable, which is classified in prepaid expenses and other on the Condensed Consolidated Balance Sheet.

In addition, for the quarter ended May 2, 2020, we recognized \$34 in employee retention payroll tax credits and elected to defer payment of the employer portion of social security taxes.

Severance

In the first quarter of 2020, we recorded \$88 of restructuring costs in connection with our regional and corporate reorganization, including \$25 in cost of sales and related buying and occupancy costs and \$63 in SG&A on the Condensed Consolidated Statement of Earnings. We expect payments to occur by the end of the second quarter of 2020.

Leases

We incurred operating lease liabilities arising from the commencement of lease agreements of \$37 for the quarter ended May 2, 2020 and \$24 for the quarter ended May 4, 2019.

Subsequent Events

In May 2020, we began reopening stores by applying a phased market-by-market approach, where allowed by state and local governments, when we are prepared with the right safety measures and protocols, and when we believe we can provide for the safety and wellbeing of our employees and customers.

Also in May 2020, significant civil unrest, looting and rioting in several urban centers impacted 27 stores with varying degrees of damage, including recently reopened stores as well as those only supporting web fulfill. As a result, we temporarily closed these stores in order to assess the damage and make repairs, as well as surrounding stores in affected areas to ensure the safety of our customers and employees. We maintain business interruption and property insurance coverage, which covers inventory at the selling price and property and equipment at replacement costs, less a deductible. We are currently assessing the degree of the damage and the extent to which insurance may be available to cover the costs associated with these events. However, we do not expect losses after insurance recoveries to be material to our Condensed Consolidated Financial Statements. We currently have more than 60% of our stores open, including stores that were damaged from the civil unrest, and we offer contactless curbside pickup service in most full-line stores.

In June 2020, we amended our Program Agreement with TD to eliminate the prior requirement to post collateral under the Agreement and to extend the term of the agreement until April 2024.

NORDSTROM, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollar and share amounts in millions except per share, per option and per unit amounts)
(Unaudited)

NOTE 2: REVENUE**Contract Liabilities**

Contract liabilities represent our obligation to transfer goods or services to customers and include deferred revenue for The Nordy Club (including points and Nordstrom Notes) and gift cards. Our contract liabilities are classified as current on the Condensed Consolidated Balance Sheet and are as follows:

	Contract Liabilities
Balance as of February 2, 2019	\$548
Balance as of May 4, 2019	504
Balance as of February 1, 2020	576
Balance as of May 2, 2020	489

Revenues recognized from our beginning contract liability balance were \$130 for the quarter ended May 2, 2020 and \$148 for the quarter ended May 4, 2019.

Disaggregation of Revenue

The following table summarizes our disaggregated net sales:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Full-Price	\$1,357	\$2,127
Off-Price	669	1,222
Total net sales	\$2,026	\$3,349
Digital sales as a % of total net sales	54%	31%

The following table summarizes the percent of net sales by merchandise category:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Women's Apparel	33%	33%
Shoes	24%	24%
Men's Apparel	12%	15%
Women's Accessories	12%	11%
Beauty	12%	10%
Kids' Apparel	4%	4%
Other	3%	3%
Total net sales	100%	100%

NORDSTROM, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollar and share amounts in millions except per share, per option and per unit amounts)
(Unaudited)

NOTE 3: DEBT AND CREDIT FACILITIES**Debt**

During the first quarter of 2020, we issued \$600 aggregate principal amount of 8.750% Senior Secured Notes due May 2025. These notes are guaranteed by certain subsidiaries and secured by various store, distribution center and corporate properties. The Secured Notes contain covenants that include limitations on indebtedness, liens, mergers, acquisitions, asset sales, investments, dividend payments and equity distributions, in addition to certain change of control triggering events and provisions for events of default. We will be permitted to prepay our Secured Notes at a premium beginning in 2022.

Credit Facilities

During the first quarter of 2020, we amended our existing Revolver and borrowed \$800. Under the terms of the amendment, if our Leverage Ratio is greater than four or our unsecured debt is rated below BBB- with a stable outlook at Standard & Poor's and Baa3 with a stable outlook at Moody's, any borrowings under our Revolver will be secured by substantially all our personal property and we will be subject to asset coverage and minimum liquidity covenants, as well as a fixed charge coverage covenant beginning in the third quarter of 2020. If our Leverage Ratio is below four and our unsecured debt is rated above BBB- with a stable outlook at Standard & Poor's and Baa3 with a stable outlook at Moody's, any borrowings under our Revolver will be unsecured, we will not be subject to the above covenants and the restrictions on dividend payments and share repurchases will be removed. As of May 2, 2020, our borrowings under the Revolver were classified as secured as our Leverage Ratio exceeded four. We met our asset coverage and minimum liquidity covenants.

The Revolver expires in September 2023 and is classified in total current liabilities on the Condensed Consolidated Balance Sheet. The Revolver contains customary representations, warranties, covenants and terms, including paying a variable rate of interest and a commitment fee based on our debt rating. The Revolver is available for working capital, capital expenditures and general corporate purposes. Provided that we obtain written consent from the lenders, we have the option to increase the Revolver by up to \$200, to a total of \$1,000, and two options to extend the Revolver by one year.

As a result of our borrowings under the Revolver, our \$800 commercial paper program is not available for borrowing at this time. When available, the program allows us to use the proceeds to fund operating cash requirements. Under the terms of the commercial paper agreement, we pay a rate of interest based on, among other factors, the maturity of the issuance and market conditions. The issuance of commercial paper has the effect of reducing available liquidity under the Revolver by an amount equal to the principal amount of commercial paper outstanding. As of May 2, 2020, we had no issuances outstanding under our commercial paper program.

NORDSTROM, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollar and share amounts in millions except per share, per option and per unit amounts)
(Unaudited)

NOTE 4: FAIR VALUE MEASUREMENTS

We disclose our financial assets and liabilities that are measured at fair value in our Condensed Consolidated Balance Sheets by level within the fair value hierarchy as defined by applicable accounting standards:

Level 1: Quoted market prices in active markets for identical assets or liabilities

Level 2: Other observable market-based inputs or unobservable inputs that are corroborated by market data

Level 3: Unobservable inputs that cannot be corroborated by market data that reflect the reporting entity's own assumptions

Financial Instruments Measured at Carrying Value

Financial instruments measured at carrying value on a recurring basis include cash and cash equivalents, accounts receivable, accounts payable and our Revolver, which approximate fair value due to their short-term nature.

Long-term debt is recorded at carrying value. If long-term debt was measured at fair value, we would use quoted market prices of the same or similar issues, which is considered a Level 2 fair value measurement. The following table summarizes the carrying value and fair value estimate of our long-term debt, including current maturities:

	May 2, 2020	February 1, 2020	May 4, 2019
Carrying value of long-term debt	\$3,264	\$2,676	\$2,676
Fair value of long-term debt	2,804	2,905	2,741

Non-financial Assets Measured at Fair Value on a Nonrecurring Basis

We also measure certain non-financial assets at fair value on a nonrecurring basis, primarily goodwill, long-lived tangible and ROU assets, in connection with periodic evaluations for potential impairment. We estimate the fair value of these assets using primarily unobservable inputs and, as such, these are considered Level 3 fair value measurements. For more information regarding long-lived tangible and ROU asset impairment charges for the quarter ended May 2, 2020, see Note 1: Basis of Presentation. There were no material impairment charges for the quarter ended May 4, 2019.

NOTE 5: COMMITMENTS AND CONTINGENCIES

Our NYC flagship store opened in October 2019 and the related building and equipment assets were placed into service at the end of the third quarter of 2019, while construction continues in the residential condominium units above the store. As of May 2, 2020, we have a fee interest in the retail condominium unit. We are committed to make one remaining installment payment based on the developer meeting final pre-established construction and development milestones. Precautions related to the COVID-19 pandemic have caused delays in meeting these milestones and the timing of the remaining payment.

Our estimated total purchase obligations decreased by approximately 40% as of May 2, 2020, compared with our balance as of February 2, 2020. This decrease was primarily from a reduction in inventory purchase orders.

NORDSTROM, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollar and share amounts in millions except per share, per option and per unit amounts)
(Unaudited)

NOTE 6: SHAREHOLDERS' EQUITY

In August 2018, our Board of Directors authorized a program to repurchase up to \$1,500 of our outstanding common stock, with no expiration date. On March 23, 2020, in response to uncertainty from the COVID-19 pandemic, we announced suspension of our quarterly dividend payments beginning in the second quarter of 2020 and the immediate suspension of our share repurchase program. We remain committed to these programs over the long-term and intend to resume dividend payments and share repurchases when appropriate.

The following is a summary of share repurchase activity:

	Quarter Ended
	May 4, 2019
2018 Program	
Shares of common stock repurchased	4.1
Aggregate amount of common stock repurchased	\$186

We had \$707 remaining in share repurchase capacity as of May 2, 2020. The actual timing, price, manner and amounts of future share repurchases, if any, will be subject to market and economic conditions, certain financial covenants and applicable SEC rules.

The amendment to our Revolver contains negative covenants with respect to the payment of dividends and share repurchases when either our Leverage Ratio is above four or our unsecured debt is rated below BBB- with a stable outlook at Standard & Poor's and Baa3 with a stable outlook at Moody's. As of May 2, 2020, our Leverage Ratio exceeded four and we did not meet our credit rating covenant, preventing us from paying dividends or repurchasing shares.

NOTE 7: STOCK-BASED COMPENSATION

The following table summarizes our stock-based compensation expense:

	Quarter Ended	
	May 2, 2020	May 4, 2019
RSUs	\$13	\$14
Stock options	2	4
Other ¹	(2)	2
Total stock-based compensation expense, before income tax benefit	13	20
Income tax benefit	(5)	(5)
Total stock-based compensation expense, net of income tax benefit	\$8	\$15

¹ Other stock-based compensation expense includes PSUs, ESPP and nonemployee director stock awards.

The following table summarizes our grant allocations:

	Quarter Ended			
	May 2, 2020		May 4, 2019	
	Granted	Weighted-average grant-date fair value per unit	Granted	Weighted-average grant-date fair value per unit
RSUs	2.2	\$23	1.1	\$41
Stock options	0.3	\$7	1.0	\$15
PSUs	0.4	\$24	0.3	\$42

Under our deferred and stock-based compensation plan arrangements, we issued 1.5 shares of common stock during the first quarter of 2020 and 1.1 shares during the first quarter of 2019.

NORDSTROM, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Dollar and share amounts in millions except per share, per option and per unit amounts)
(Unaudited)

NOTE 8: EARNINGS PER SHARE

The computation of EPS is as follows:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Net (loss) earnings	(\$521)	\$37
Basic shares	156.4	155.0
Dilutive effect of common stock equivalents	—	1.2
Diluted shares	156.4	156.2
(Loss) earnings per basic share	(\$3.33)	\$0.24
(Loss) earnings per diluted share	(\$3.33)	\$0.23
Anti-dilutive common stock equivalents	13.1	9.3

NOTE 9: SEGMENT REPORTING

The following table sets forth information for our reportable segment:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Retail segment EBIT	(\$711)	\$142
Corporate/Other loss before interest and income taxes	(102)	(65)
Interest expense, net	(34)	(24)
(Loss) earnings before income taxes	(\$847)	\$53

For information about disaggregated revenues, see Note 2: Revenue.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

(Dollar and share amounts in millions except per share amounts)

OVERVIEW

In March 2020, the World Health Organization declared COVID-19 a global pandemic, and governmental authorities around the world have implemented measures to reduce the spread of COVID-19 including restrictions on business operations, public gatherings and travel, as well as stay-at-home orders, social distancing, and quarantines.

With health and safety as our priority, we temporarily closed our stores beginning March 17, 2020 to do our part to limit the spread of the virus. The temporary store closures had a meaningful impact on our financial results as stores made up two-thirds of sales in 2019. For the first quarter, our net loss per share of \$3.33 and EBIT loss of \$813 included net charges related to COVID-19 of \$280 before taxes. These charges included non-cash asset impairments primarily related to our permanent store closures as well as premium pay and benefits and restructuring charges, slightly offset by payroll tax credits from the CARES Act.

Total net sales declined 40% as a result of our temporary store closures, while we saw online demand, which is an indicator of underlying trends, grow by 9% in the first quarter, consistent with the second half of 2019. In our e-commerce business, sales grew 5% and we saw more than 50% growth in customers who are new to Nordstrom.

Liquidity and Results

We finished 2019 in a strong financial position, with momentum from accelerated sales trends in the second half of last year continuing in February. As the impact of COVID-19 began to unfold in March, we took immediate steps to increase liquidity, reduce inventory and minimize cash burn in order to strengthen our financial flexibility, including the following:

- Reduced inventory by more than 25% from last year, allowing us to bring in new product in June
- Executing on our planned expense savings of \$200 to \$250 and further net cash savings of more than \$500 in operating expenses, capital expenditures, and working capital
- Suspended quarterly cash dividends beginning in the second quarter of 2020 and share repurchases
- Drew down \$800 on our Revolver and issued \$600 in secured debt financing

Based on our actions we increased our cash from \$853 at the beginning of the year to \$1,355 by the end of the first quarter. We reduced cash burn by more than 40% from March into April and currently expect to reach break-even on our cash burn by the end of the second quarter.

Strategy

The impact of COVID-19 is only accelerating the changes that were already well underway with our customers, including how they want to engage with digital and physical experiences. The flexibility of our business model allows us to stay ahead of these changes as we serve customers through two distinctive brands — Nordstrom and Nordstrom Rack — across stores and online.

We believe that our unique mix of assets is a competitive advantage. In 2019, Off-Price and e-commerce accounted for nearly 60% of sales, and our U.S. mall-based full-line stores accounted for 38% while contributing positive cash flows. As we anticipate an acceleration of these longer-term customer trends, we are taking proactive steps to move faster in executing our strategic plans, including optimizing the mix of our digital and physical assets, and as a result we permanently closed 16 FLS and three Jeffrey specialty boutiques.

Our market strategy remains a priority for us to gain market share and increase inventory efficiencies in our top markets. We are bringing greater merchandise selection and faster delivery to customers while increasing engagement through our services. Having a mix of full-line stores, Racks, and Nordstrom Locals and connecting these physical assets seamlessly with an online experience gives us a distinct advantage in serving customers on their terms.

We are also creating a leaner and more flexible organization by combining our Full-Price and Off-Price teams, reducing the size of our corporate teams, and investing in critical capabilities across technology, data analytics, and supply chain.

Store Reopenings

In May 2020, we began reopening stores by applying a phased market-by-market approach, where allowed by state and local governments, when we are prepared with the right safety measures and protocols, and when we believe we can provide for the safety and wellbeing of our employees and customers. We currently have more than 60% of our stores open, including stores that were damaged from the civil unrest, and we offer contactless curbside pickup service in most full-line stores.

Summary

We have accelerated our long-term strategic plans by adjusting the mix of our physical and digital assets and increasing our agility through a leaner organization. As we emerge from this crisis, our focus remains on gaining market share while driving top-line growth and improving profitability. Our financial flexibility, coupled with our business model to serve customers on their terms, positions us for success over the medium and long-term.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**(Continued)** (Amounts in millions except per share amounts)**RESULTS OF OPERATIONS**

In our ongoing effort to enhance the customer experience, we are focused on providing a seamless experience across our businesses. We invested early in our omni-channel capabilities, integrating our operations, merchandising and technology across our stores and online, in both our Full-Price and Off-Price businesses. While our customers may engage with us through multiple businesses, we know they value the overall Nordstrom brand experience and view us simply as Nordstrom, which is ultimately how we view our company. We have one Retail reportable segment and analyze our results on a total company basis, using customer, market share, operational and net sales metrics.

Net Sales

The following table summarizes net sales by business:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Net sales by business:		
Full-Price	\$1,357	\$2,127
Off-Price	669	1,222
Total net sales	\$2,026	\$3,349
Net sales decrease by business:		
Full-Price	(36.2%)	(5.1%)
Off-Price	(45.2%)	(0.6%)
Total Company	(39.5%)	(3.5%)
Digital sales as a % of total net sales	54%	31%
Digital sales increase	5%	7%

Total Company net sales decreased 40% for the first quarter of 2020, compared with the same period in fiscal 2019, driven by temporary store closures beginning on March 17, 2020 related to COVID-19. Total Company digital sales increased 5% in the first quarter of 2020, compared with the same period in 2019, driven by increased marketing and promotional activity to stimulate demand and clear excess inventory. During the quarter ended May 2, 2020, we closed one Nordstrom Rack and integrated a Dallas Clubhouse location into the NorthPark Center FLS in Dallas.

Total Company, Full-Price, Off-Price and Digital sales include the impact of the sales return reserve. The sales return reserve for all channels increased in the first quarter of 2020, compared with the same period in fiscal 2019, as a result of the temporary closure of our stores beginning on March 17, 2020 (see Note 1: Basis of Presentation in Item 1).

Full-Price net sales decreased 36% percent for the first quarter of 2020, compared with the same period in 2019. These declines resulted from temporary store closures beginning March 17, 2020. Kids' was the top-performing merchandise category in Full-Price.

Off-Price net sales decreased 45% percent for the first quarter of 2020, compared with the same period in 2019. These declines resulted from temporary store closures beginning March 17, 2020. Accessories was the top-performing merchandise category in Off-Price.

Credit Card Revenues, Net

Credit card revenues, net include our portion of the ongoing credit card revenue, net of credit losses, pursuant to our program agreement with TD. TD is the exclusive issuer of our consumer credit cards and we perform the account servicing functions. Credit card revenues, net was \$93 for the quarter ended May 2, 2020, which was flat to the same period in 2019.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**(Continued)** (Amounts in millions except per share amounts)**Gross Profit**

The following table summarizes gross profit:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Gross profit	\$216	\$1,121
Gross profit as a % of net sales	10.7%	33.5%
Inventory turnover rate	4.81	4.68

Gross profit decreased \$905 and 23%, as a percentage of net sales, during the first quarter of 2020, compared with the same period in fiscal 2019. These decreases were driven by \$75 of incremental markdowns to clear excess inventory and deleverage from lower sales volume. Gross profit also included approximately \$30 of COVID-19 related restructuring charges, premium pay and benefits, partially offset by payroll tax credits from the CARES Act.

Ending inventory as of May 2, 2020 decreased 26% compared with the prior year, primarily due to our aggressive actions to reduce receipts and clear inventory through increased marketing and promotional activities and store fulfillment capabilities.

Selling, General and Administrative Expenses

SG&A is summarized in the following table:

	Quarter Ended	
	May 2, 2020	May 4, 2019
SG&A expenses	\$1,122	\$1,138
SG&A expenses as a % of net sales	55.4%	34.0%

SG&A decreased \$16 during the first quarter of 2020, compared with the same period in fiscal 2019. Excluding approximately \$250 of COVID-19 charges related to asset impairment from the store closures, premium pay and benefits, restructuring charges and partially offset by payroll tax credits from the CARES Act, SG&A decreased \$266 primarily due to lower sales volume in addition to reduced overhead labor costs in response to temporary store closures.

(Loss) Earnings Before Interest and Income Taxes

EBIT is summarized in the following table:

	Quarter Ended	
	May 2, 2020	May 4, 2019
EBIT	(\$813)	\$77
EBIT as a % of net sales	(40.1%)	2.3%

EBIT decreased \$890 during the first quarter of 2020, compared with the same period in fiscal 2019. The decrease was due to lower sales volume from temporary store closures beginning on March 17, 2020, increased markdowns and net charges of \$280 related to the impact of COVID-19.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**(Continued)** (Amounts in millions except per share amounts)**Interest Expense, Net**

Interest expense, net was \$34 for the first quarter of 2020, compared with \$24 for the same period in 2019. The increase was primarily due to lower capitalized interest in 2020 as well as additional interest related to the Revolver drawdown and the new Senior Secured Note in the first quarter of 2020.

Income Tax Expense

Income tax expense is summarized in the following table:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Income tax (benefit) expense	(\$326)	\$16
Effective tax rate	38.4%	31.0%

The effective tax rate increased in the first quarter of 2020, compared with the same period in 2019, primarily due to the CARES Act that allows us to carry back expected 2020 losses at the higher tax rate in previous years. The increase was partially offset by reduced federal credits and increased nondeductible stock compensation.

Earnings Per Share

EPS is as follows:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Basic	(\$3.33)	\$0.24
Diluted	(\$3.33)	\$0.23

Earnings per diluted share decreased \$3.56 for the first quarter of 2020, compared with the same period in 2019, primarily due to lower sales as a result of COVID-19.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.
(Continued) (Amounts in millions except per share amounts)

Adjusted ROIC (Non-GAAP financial measure)

We believe that Adjusted ROIC is a useful financial measure for investors in evaluating the efficiency and effectiveness of the capital we have invested in our business to generate returns over time. In addition, we have incorporated it in our executive incentive measures and we believe it is an important indicator of shareholders' return over the long term.

For 2019, income statement activity for adjusted net operating profit and balance sheet amounts for average invested capital are comprised of one quarter of activity under the Lease Standard for 2019, and three quarters of 2018 under the previous lease standard. Under the previous lease standard, we estimated the value of our operating leases as if they met the criteria for capital leases or we had purchased the properties. This provided additional supplemental information that estimated the investment in our operating leases. Estimated depreciation on capitalized operating leases and average estimated asset base of capitalized operating leases are not calculated in accordance with, nor an alternative for, GAAP and should not be considered in isolation or as a substitution for our results as reported under GAAP.

Adjusted ROIC is not a measure of financial performance under GAAP and should be considered in addition to, and not as a substitute for, return on assets, net earnings, total assets or other GAAP financial measures. Our method of determining non-GAAP financial measures may differ from other companies' methods and therefore may not be comparable to those used by other companies. The financial measure calculated under GAAP which is most directly comparable to Adjusted ROIC is return on assets.

The following is a reconciliation of return on assets to Adjusted ROIC:

	Four Quarters Ended	
	May 2, 2020	May 4, 2019
Net (loss) earnings	(\$62)	\$513
Add: income tax (benefit) expense	(156)	147
Add: interest expense	121	115
(Loss) earnings before interest and income tax expense	(97)	775
Add: operating lease interest ¹	102	23
Add: rent expense, net	—	189
Less: estimated depreciation on capitalized operating leases ²	—	(101)
Adjusted net operating profit	5	886
Less: estimated income tax expense	(4)	(198)
Adjusted net operating profit after tax	\$1	\$688
Average total assets	\$9,811	\$8,591
Add: average estimated asset base of capitalized operating leases ²	—	1,508
Less: average deferred property incentives and deferred rent liability	—	(459)
Less: average deferred property incentives in excess of ROU assets ³	(303)	(77)
Less: average non-interest-bearing current liabilities	(3,324)	(3,438)
Average invested capital	\$6,184	\$6,125
Return on assets⁴	(0.6%)	6.0%
Adjusted ROIC⁴	—%	11.3%

¹ As a result of the adoption of the Lease Standard, we add back the operating lease interest to reflect how we manage our business. Operating lease interest is a component of operating lease cost recorded in occupancy costs and is calculated in accordance with the Lease Standard.

² Capitalized operating leases is our best estimate of the asset base we would record for our leases that are classified as operating under the previous lease standard if they had met the criteria for a finance lease or we had purchased the property. The asset base for each quarter is calculated as the trailing four quarters of rent expense multiplied by eight, a commonly used method to estimate the asset base we would record for our capitalized operating leases.

³ For leases with property incentives that exceed the ROU assets, we reclassify the amount from assets to other current liabilities and other liabilities. As a result of the adoption of the Lease Standard, we reduce average total assets, as this better reflects how we manage our business.

⁴ Results for the four quarters ended May 4, 2019 included the \$72 impact related to the Estimated Non-recurring Charge, which negatively impacted return on assets by approximately 60 basis points and Adjusted ROIC by approximately 70 basis points. Integration charges, primarily related to Trunk Club, of \$32 in the fourth quarter of 2019, were primarily non-cash related and negatively impacted return on assets by approximately 30 basis points and Adjusted ROIC by approximately 20 basis points for the four quarters ended May 2, 2020. COVID-19 related charges in the first quarter of 2020 negatively impacted return on assets by approximately 180 basis points and Adjusted ROIC by approximately 130 basis points.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**(Continued)** (Amounts in millions except per share amounts)**LIQUIDITY AND CAPITAL RESOURCES**

In response to the uncertainty related to the COVID-19 pandemic, we have taken action to provide further liquidity and flexibility during these unprecedented times. We temporarily closed all of our stores beginning on March 17, 2020. We will assess the situation market by market for reopenings and have currently opened more than 60% of our stores. We continue to review state and local legal requirements and conditions and may need to close some or all of the stores currently open as COVID-19 and other uncertainties, including the civil unrest, continue to unfold. We remain open and ready to serve our customers through our apps and online at Nordstrom.com, Nordstrom.ca, Nordstromrack.com, HauteLook.com and TrunkClub.com, including digital styling, online order pickup and curbside services at certain FLS. Our business model serves us well as we fulfill digital orders through our FLS and we recently enabled Off-Price digital sales to be fulfilled by our Nordstrom Rack stores. We have taken the following actions to date to increase our cash position and preserve financial flexibility:

- Drew down \$800 on our Revolver and issued \$600 in secured debt financing, ending the quarter with \$1,355 in cash and cash equivalents on-hand
- Suspended quarterly cash dividends beginning in the second quarter of 2020 and share repurchases
- Planned expense savings of \$200 to \$250 and further net cash savings of more than \$500 in operating expenses, capital expenditures and working capital in fiscal year 2020

We strive to maintain a level of liquidity sufficient to allow us to cover our seasonal cash needs and to maintain appropriate levels of short-term borrowings. While this is a time of great uncertainty, we believe that our operating cash flows are sufficient to meet our cash requirements for the next 12 months and beyond, even excluding the impacts of any potential future borrowings.

Over the long term, we manage our cash and capital structure to maximize shareholder return, maintain our financial position, manage refinancing risk and allow flexibility for strategic initiatives. We regularly assess our debt and leverage levels, capital expenditure requirements, debt service payments, dividend payouts, potential share repurchases and other future investments.

The following is a summary of our cash flows by activity:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Net cash used in operating activities	(\$778)	(\$31)
Net cash used in investing activities	(126)	(248)
Net cash provided by (used in) financing activities	1,417	(230)

Operating Activities

Net cash used in operating activities increased \$747 for the quarter ended May 2, 2020, compared with the same period in 2019, primarily due to a reduction in net earnings as a result of temporary store closures and the charges associated with the impacts of COVID-19.

Investing Activities

Net cash used in investing activities decreased \$122 for the quarter ended May 2, 2020, compared with the same period in 2019, primarily due to a decrease in capital expenditures, as we prioritized investments in supply chain and technology, while reducing non-critical spend on store remodels.

Capital Expenditures

Our capital expenditures, net are summarized as follows:

Fiscal year	Quarter Ended	
	May 2, 2020	May 4, 2019
Capital expenditures	\$131	\$249
Less: deferred property incentives ¹	(8)	(29)
Capital expenditures, net	\$123	\$220
Capital expenditures % of net sales	6.4%	7.4%

¹Deferred property incentives are included in our cash provided by operations in our Consolidated Statements of Cash Flows in Item 1. We operationally view the property incentives we receive from our developers and vendors as an offset to our capital expenditures.

Financing Activities

The change in financing activities for the quarter ended May 2, 2020, compared with the same period in 2019, was \$1,647, primarily due to the proceeds from the Revolver and Secured Notes and decreased share repurchases, which were paused beginning in the second quarter of 2019.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**(Continued)** (Amounts in millions except per share amounts)**Free Cash Flow (Non-GAAP financial measure)**

Free Cash Flow is one of our key liquidity measures, and when used in conjunction with GAAP measures, we believe it provides investors with a meaningful analysis of our ability to generate cash from our business.

Free Cash Flow is not a measure of financial performance under GAAP and should be considered in addition to, and not as a substitute for, operating cash flows or other financial measures prepared in accordance with GAAP. Our method of determining non-GAAP financial measures may differ from other companies' methods and therefore may not be comparable to those used by other companies. The financial measure calculated under GAAP which is most directly comparable to Free Cash Flow is net cash used in operating activities. The following is a reconciliation of net cash used in operating activities to Free Cash Flow:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Net cash used in operating activities	(\$778)	(\$31)
Less: capital expenditures	(131)	(249)
Add: change in cash book overdrafts	83	40
Free Cash Flow	(\$826)	(\$240)

Adjusted EBITDA and Adjusted EBITDAR (Non-GAAP financial measures)

Adjusted EBITDA is one of our key financial metrics to reflect our view of cash flow from net earnings. Adjusted EBITDA excludes significant items which are non-operating in nature in order to evaluate our core operating performance against prior periods. The financial measure calculated under GAAP which is most directly comparable to Adjusted EBITDA is net earnings.

Adjusted EBITDAR is also one of our key financial metrics as it will be used to measure compliance with one of our Revolver covenants beginning in the third quarter of 2020. Adjusted EBITDAR reflects the items in Adjusted EBITDA, excludes rent expense as defined by the Revolver agreement, and captures other differences between the contractual requirements in the Revolver agreement and Adjusted EBITDA, including the inclusion or exclusion of certain non-cash charges. The financial measure calculated under GAAP which is most directly comparable to Adjusted EBITDAR is net earnings.

Adjusted EBITDA and Adjusted EBITDAR are not measures of financial performance under GAAP and should be considered in addition to, and not as a substitute for net earnings, overall change in cash or liquidity of the business as a whole. Our method of determining non-GAAP financial measures may differ from other companies' methods and therefore may not be comparable to those used by other companies. The following is a reconciliation of net earnings to Adjusted EBITDA and Adjusted EBITDAR:

	Quarter Ended	
	May 2, 2020	May 4, 2019
Net (loss) earnings	(\$521)	\$37
Add: income tax (benefit) expense	(326)	16
Add: interest expense, net	34	24
(Loss) earnings before interest and income taxes	(813)	77
Add: depreciation and amortization expenses	176	163
Less: amortization of developer reimbursements	(19)	(19)
Add: asset impairments	117	—
Adjusted EBITDA	(\$539)	\$221
Add: rent expense ¹	61	65
Add: other Revolver covenant adjustments ²	2	3
Adjusted EBITDAR	(\$476)	\$289

¹ Rent expense, exclusive of amortization of developer reimbursements, is added back for consistency with our debt covenant calculation requirements, and is calculated under the previous lease standard.

² Other adjusting items to reconcile Adjusted EBITDA to Adjusted EBITDAR as defined by our Revolver covenant includes interest income, and certain non-cash charges where relevant.

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations.**(Continued)** (Amounts in millions except per share amounts)**Credit Capacity and Commitments**

During the first quarter of 2020, we amended our existing Revolver and borrowed \$800. As of May 2, 2020, we had \$800 outstanding under the credit facility. The Revolver contains customary representations, warranties, covenants and terms, including paying a variable rate of interest and a commitment fee based on our debt rating. The Revolver is available for working capital, capital expenditures and general corporate purposes. Provided that we obtain written consent from our lenders, we have the option to increase the Revolver by up to \$200, to a total of \$1,000, and two options to extend the Revolver by one year. For more information about our credit facilities, see Note 3: Debt and Credit Facilities in Item 1.

Impact of Credit Ratings

Changes in our credit ratings may impact our costs to borrow, whether our personal property secures our Revolver and the debt covenants we follow.

For our Revolver, the interest rate applicable to any borrowings we may enter into depends upon the type of borrowing incurred plus an applicable margin, which is determined based on our credit ratings. At the time of this report, our credit ratings and outlook were as follows:

	Credit Ratings	Outlook
Moody’s	Baa3	Negative
Standard & Poor’s	BBB-	Negative

Should the ratings assigned to our long-term debt improve, the applicable margin associated with any borrowings under the Revolver may decrease, resulting in a lower borrowing cost under this facility. Conversely, should the ratings assigned to our long-term debt worsen, the applicable margin associated with any borrowings under the Revolver may increase, resulting in a higher borrowing cost under this facility.

Debt Covenants

As of May 2, 2020, our borrowings under the Revolver were classified as secured as our Leverage Ratio exceeded four, and we met our asset coverage and minimum liquidity covenants. For more information about our debt covenants, see Note 3: Debt and Credit Facilities in Item 1.

Contractual Obligations

As of May 2, 2020, there have been no material changes to our contractual obligations as disclosed in our 2019 Annual Report except as disclosed in Note 3: Debt and Credit Facilities and Note 5: Commitments and Contingencies of Item 1.

CRITICAL ACCOUNTING ESTIMATES

The preparation of our financial statements requires that we make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and disclosure of contingent assets and liabilities. We base our estimates on historical experience and other assumptions that we believe to be reasonable under the circumstances. Actual results may differ from these estimates. We believe that the estimates, assumptions and judgments involved in the accounting policies referred to in our 2019 Annual Report have the greatest potential effect on our financial statements, so we consider these to be our critical accounting policies and estimates. Our management has discussed the development and selection of these critical accounting estimates with the Audit & Finance Committee of our Board of Directors.

Except as disclosed in Note 1: Basis of Presentation of Item 1, pertaining to the impact of COVID-19, there have been no material changes to our significant accounting policies or critical accounting estimates as described in our 2019 Annual Report.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

We discussed our interest rate risk and our foreign currency exchange risk in our 2019 Annual Report. There have been no material changes to these risks since that time.

Item 4. Controls and Procedures.

DISCLOSURE CONTROLS AND PROCEDURES

As of the end of the period covered by this Quarterly Report on Form 10-Q, we performed an evaluation under the supervision and with the participation of management, including our principal executive officer and principal financial officer, of the design and effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) or 15d-15(e) under the Exchange Act). Based upon that evaluation, our principal executive officer and principal financial officer concluded that, as of the end of the period covered by this Quarterly Report, our disclosure controls and procedures were effective in the timely and accurate recording, processing, summarizing and reporting of material financial and non-financial information within the time periods specified within the SEC's rules and forms. Our principal executive officer and principal financial officer also concluded that our disclosure controls and procedures were effective to ensure that information required to be disclosed in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our principal executive officer and principal financial officer, to allow timely decisions regarding required disclosure.

CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING

During the quarter ended May 2, 2020, we implemented a new payroll system and modified our payroll processes and related internal controls.

There were no other changes in our internal control over financial reporting (as defined in Rules 13a-15(f) or 15d-15(f) of the Exchange Act) during our most recently completed fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II — OTHER INFORMATION

Item 1. Legal Proceedings.

We are subject from time to time to various claims and lawsuits arising in the ordinary course of business, including lawsuits alleging violations of state and/or federal wage and hour and other employment laws, privacy and other consumer-based claims. Some of these lawsuits include certified classes of litigants, or purport or may be determined to be class or collective actions and seek substantial damages or injunctive relief, or both, and some may remain unresolved for several years. We believe the recorded accruals in our Condensed Consolidated Financial Statements are adequate in light of the probable and estimable liabilities. As of the date of this report, we do not believe any currently identified claim, proceeding or litigation, either alone or in the aggregate, will have a material impact on our results of operations, financial position or cash flows. Since these matters are subject to inherent uncertainties, our view of them may change in the future.

Item 1A. Risk Factors.

There have been no material changes to the risk factors we discussed in our [Form 8-K](#) filed with the SEC on April 8, 2020.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

(c) SHARE REPURCHASES

(Dollar and share amounts in millions, except per share amounts)

In August 2018, our Board of Directors authorized a program to repurchase up to \$1,500 of our outstanding common stock, with no expiration date. On March 23, 2020, in response to uncertainty from the COVID-19 pandemic, we announced that we were suspending share repurchases. During the first quarter of 2020, we did not repurchase any shares of our common stock and we had \$707 remaining in share repurchase capacity as of May 2, 2020. The actual timing, price, manner and amounts of future share repurchases, if any, will be subject to market and economic conditions, certain financial covenants and applicable SEC rules.

Item 6. Exhibits.

Exhibits are incorporated herein by reference or are filed or furnished with this report as set forth in the Exhibit Index on page 27 hereof.

NORDSTROM, INC.
Exhibit Index

	Exhibit	Method of Filing
3.1	Bylaws, as amended and restated on May 20, 2020	Incorporated by reference from the Registrant's Form 8-K filed on May 26, 2020, Exhibit 3.1
4.1	Indenture, dated as of April 16, 2020, by and between Nordstrom, Inc. and Wells Fargo Bank, National Association, as indenture trustee	Filed herewith electronically
10.1	Nordstrom, Inc. 2019 Equity Incentive Plan (2020 Amendment)	Incorporated by reference to Appendix B to the Registrant's Form DEF 14A filed on April 7, 2020
10.2	Nordstrom Supplemental Executive Retirement Plan (2020 Restatement)	Filed herewith electronically
10.3	First Amendment to Revolving Credit Agreement dated September 26, 2018	Filed herewith electronically
10.4	Form of Restricted Stock Award under the 2019 Equity Incentive Plan	Filed herewith electronically
10.5	Form of 2020 Nonqualified Stock Option Award Agreement, Supplemental Award	Filed herewith electronically
31.1	Certification of Chief Executive Officer required by Section 302(a) of the Sarbanes-Oxley Act of 2002	Filed herewith electronically
31.2	Certification of Chief Financial Officer required by Section 302(a) of the Sarbanes-Oxley Act of 2002	Filed herewith electronically
32.1	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	Furnished herewith electronically
101.INS	Inline XBRL Instance Document	Filed herewith electronically
101.SCH	Inline XBRL Taxonomy Extension Schema Document	Filed herewith electronically
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document	Filed herewith electronically
101.LAB	Inline XBRL Taxonomy Extension Labels Linkbase Document	Filed herewith electronically
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document	Filed herewith electronically
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document	Filed herewith electronically
104	Cover Page Interactive Data File (Inline XBRL)	Filed herewith electronically

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 thereunto duly authorized.

NORDSTROM, INC.
(Registrant)

/s/ Anne L. Bramman
Anne L. Bramman
Chief Financial Officer
(Principal Financial Officer)

Date: June 10, 2020

NORDSTROM, INC.,
as Issuer,

the GUARANTORS party hereto

AND

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Trustee

\$600,000,000 8.750% Senior Secured Notes due 2025

INDENTURE

Dated as of April 16, 2020

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EXHIBIT C Form of Certificate to be Delivered in Connection with Transfers Pursuant to Regulation S

EXHIBIT D Designated Real Estate Assets

INDENTURE, dated as of April 16, 2020, among NORDSTROM, INC., a Washington corporation (the “Issuer”), the Guarantors party hereto from time to time and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as trustee (in such capacity, the “Trustee”).

WITNESSETH:

WHEREAS, the Issuer and the Guarantors have duly authorized the execution and delivery of this Indenture to provide for the issuance and guarantee, respectively, of (i) the Issuer’s \$600,000,000 8.750% Senior Secured Notes due 2025 (the “Initial Notes”), as issued on the date hereof, and (ii) any additional 8.750% Senior Secured Notes due 2025 issued pursuant to this Indenture (the “Additional Notes,” and together with the Initial Notes, the “Notes” or the “Securities”) from time to time after the Issue Date.

NOW, THEREFORE, in consideration of the purchase of the Notes by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders, as follows:

Article I.

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.1. Definitions.

“Access Period” means, for each parcel of real estate Collateral, the period, which begins on the day on which the applicable Credit Agreement Agent provides the collateral trustee with notice of its exercise of its access rights in accordance with collateral access agreement following either (a) delivery by the collateral trustee to the applicable Credit Agreement Agent of a notice that it has either obtained possession or control of such parcel of real estate Collateral or sold or otherwise disposed of such parcel of real estate Collateral or (b) delivery of an enforcement notice by the applicable Credit Agreement Agent to the collateral trustee, and ends on the earliest of (A) the 180th day after such date (subject to customary tolling provisions); (B) the date on which all or substantially all of the Credit Agreement Collateral located on such parcel of real estate Collateral is collected and removed from such parcel of real estate Collateral; and (C) the repayment in full of all Credit Agreement Obligations (other than contingent indemnification obligations for which no claim has been made).

2 “Affiliate” means, with respect to a specified 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.

3 “Appraised Value” of any Real Estate Asset subject to a Mortgage in favor of the Collateral Trustee shall mean the appraised value thereof as set out in an Officer’s Certificate and determined pursuant to a customary appraisal conducted by any appraiser of nationally recognized standing that is not an Affiliate of the Issuer that is selected by the Issuer; *provided* that such appraisal has been conducted within 12 months prior to the date of determination of the Collateral Coverage Ratio.

4 “Asset Disposition” means the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions, of Designated Real Estate Assets or Collateral (including by way of a Sale/ Leaseback Transaction) by the Issuer or PropCo including the issuance or sale of Equity Interests of PropCo, whether in a single transaction or a series of related transactions (each referred to in this definition as a “*disposition*”), in each case, other than:

(1) dispositions of Designated Real Estate and/or Collateral by the Issuer to PropCo;

(2) the issuance or sale of Equity Interests by PropCo to the Issuer; and

(3) to the extent constituting a disposition, the creation, incurrence or assumption of Permitted Liens or other Liens not prohibited by this Indenture.

5 “Bankruptcy Code” means Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor statute.

6 “Below Investment Grade Rating Event” means the ratings on the Notes are lowered by each of the Rating Agencies and the Notes are rated below Investment Grade by each of the Rating Agencies on any date from the date of the public notice of an arrangement that could result in a Change of Control until the end of the 60-day period following public notice of the occurrence of a Change of Control (which period shall be extended so long as the rating of the Notes is under publicly announced consideration for possible downgrade by any of the Rating Agencies); provided that a Below Investment Grade Rating Event otherwise arising by virtue of a particular reduction in rating shall not be deemed to have occurred in respect of a particular Change of Control (and thus shall not be deemed a Below Investment Grade Rating Event for purposes of the definition of Change of Control Repurchase Event hereunder) if any of the Rating Agencies making the reduction in rating to which this definition would otherwise apply does not announce or publicly confirm or inform the Trustee in writing at its request that the reduction was the result, in whole or in part, of any event or circumstance comprised of or arising as a result of, or in respect of, the applicable Change of Control (whether or not the applicable Change of Control shall have occurred at the time of the Below Investment Grade Rating Event).

7 “Board of Directors” means (1) with respect to the Issuer or any corporation, the board of directors or managers, as applicable, of the corporation, or any duly authorized committee thereof; (2) with respect to any partnership, the board of directors or other governing body of the general partner of the partnership or any duly authorized committee thereof; and (3) with respect to any other Person, the board or any duly authorized committee of such Person serving a similar function. Whenever any provision requires any action or determination to be made by, or any approval of, a Board of Directors, such action, determination or approval shall be deemed to have been taken or made if approved by a majority of the directors on any such Board of Directors (whether or not such action or approval is taken as part of a formal board meeting or as a formal board approval).

8 “Business Day” means each day that is not a Saturday, Sunday or other day on which banking institutions in New York, New York, United States or the jurisdiction of the place of payment are authorized or required by law to close.

9 “Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

10 “Casualty Event” means any taking under power of eminent domain or similar proceeding and any insured loss, in each case relating to property or other assets that constituted Collateral.

11 “Change of Control” means the occurrence of any of the following: (1) the direct or indirect sale, transfer, conveyance or other disposition (other than by way of merger or consolidation), in one or a series of related transactions, of all or

substantially all of the Issuer's properties or assets and those of the Company's subsidiaries taken as a whole to any "person" or "group" (as that term is used in Section 13(d)(3) of the Exchange Act), other than the Issuer or one of its subsidiaries; (2) the adoption of a plan relating to the Issuer's liquidation or dissolution; or (3) the consummation of any transaction or series of related transactions (including, without limitation, any merger or consolidation) the result of which is that any "person" or "group" (as that term is used in Section 13(d)(3) of the Exchange Act), other than the Company or any of its wholly-owned subsidiaries, becomes the beneficial owner, directly or indirectly, of more than 50% of the then outstanding number of shares of its voting stock, measured by voting power rather than number of shares.

12 "Change of Control Triggering Event" means the occurrence of both a Change of Control and a Below Investment Grade Rating Event.

13 "Collateral" means all properties and assets of the Issuer and the Guarantors now owned or hereafter acquired in which Liens have been granted, or purported to be granted, or required to be granted, to the Collateral Trustee to secure any or all of the Parity Lien Obligations, except:

(1) any properties and assets in which the Collateral Trustee is required to release its Liens pursuant to the provisions in Section 3.2 of the Collateral Trust Agreement; and

(2) any properties and assets that no longer secure the Notes or any Obligations in respect thereof pursuant to the provisions in Section 12.3 of this Indenture provided that, in the case of clauses (1) and (2), if such Liens are required to be released as a result of the sale, transfer or other disposition of any properties or assets of the Issuer or any Guarantor, such assets or properties will cease to be excluded from the Collateral if the Issuer or any Guarantor thereafter acquires or reacquires such assets or properties.

14 "Collateral Coverage Ratio" means, as of any date of determination, the ratio of (a) the aggregate Appraised Value of all Real Estate Assets that are subject to a Mortgage to secure the Parity Lien Obligations on such date to (b) the aggregate principal amount of the Parity Lien Obligations then outstanding as of such date.

15 "Collateral Trust Agreement" means the collateral trust agreement, dated as of the date hereof, among the Issuer, the other grantors party from time to time thereto, the Trustee, and the Collateral Trustee and the other parties thereto from time to time, as such agreement may be amended, supplemented, amended and restated or otherwise modified from time to time.

16 "Collateral Trustee" means Wells Fargo Bank, National Association, in its capacity as collateral trustee under the Collateral Trust Agreement, together with its successors and assigns in such capacity.

17 "Consolidated Adjusted EBITDA" means, for any period, Consolidated Net Income for such period (disregarding any non-cash charges or credits related to any Plan, any non-qualified supplemental pension plan maintained, sponsored or contributed by the Issuer or any ERISA Affiliate, or any Multiemployer Plan) *plus*:

(a) without duplication and to the extent deducted in determining such Consolidated Net Income, the sum of:

(i) consolidated interest expense for such period, *plus*

(ii) consolidated income tax expense for such period, *plus*

(iii) all amounts attributable to depreciation and amortization for such period, *plus*

(iv) any extraordinary, unusual or non-recurring charges for such period, *plus*

(v) any fees, expenses or charges related to any equity offering, permitted acquisition or other investment, Asset Disposition or other disposition, or incurrence or refinancing of (or amendment or other modification to the documents evidencing any) Indebtedness (in each case, whether or not successful or consummated) permitted to be made or incurred under this Indenture, including fees, expenses or charges relating to the offering and the use of proceeds hereof, as well as the amendment to the Revolving Credit Facility described in the offering memorandum to which the Notes relate, *plus*

(vi) any premium, make-whole or penalty payments that are required to be made in connection with any prepayment of Indebtedness, *plus*

(vii) any non-cash charges for such period; *provided* that in the event the Issuer or any Subsidiary makes any cash payment in respect of any such non-cash charge, such cash payment shall be deducted from Consolidated Adjusted EBITDA in the period in which such payment is made, *plus*

(viii) the amount of cash restructuring charges and curtailments and modifications to pension and post-retirement employee benefit plans incurred during such period;

and *minus*:

(b) without duplication and to the extent included in determining such Consolidated Net Income, the sum of:

(i) any extraordinary, unusual or non-recurring gains for such period, *plus*

(ii) non-cash gains for such period,

all determined on a consolidated basis in accordance with GAAP.

18 “Consolidated Net Income” means, for any period, the net income or loss of the Issuer and the Subsidiaries for such period determined on a consolidated basis in accordance with GAAP; *provided* that there shall be excluded (a) the income (or loss) of any Person in which any other Person (other than the Issuer or any Subsidiary or any director holding qualifying shares in compliance with applicable law) owns an Equity Interest, except to the extent of the amount of dividends or other distributions actually paid to the Issuer or any of the Subsidiaries during such period, and (b) the income or loss of any Person accrued prior to the date it becomes a Subsidiary or is merged into or consolidated with the Issuer or any Subsidiary or the date that such Person’s assets are acquired by the Issuer or any Subsidiary.

19 “Consolidated Total Debt” means, as of any date of determination, the aggregate stated balance sheet amount of all Indebtedness of the Issuer and its Subsidiaries (or, if higher, the par value or stated face amount outstanding of all such Indebtedness (other than zero coupon Indebtedness)) determined on a consolidated basis in accordance with GAAP.

20 “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.

“Corporate Trust Office” means the office of the Trustee at which the corporate trust business of the Trustee shall, at any particular time, be principally administered, which office is, as of the date of this Indenture, located at 333 S. Grand Avenue, 5th Floor, Suite 5A, Los Angeles, California 90071 Attn: Nordstrom, Inc. Administrator; with respect to registration for transfer or exchange, presentation at maturity or for redemptions, such office shall also mean the office or agency of the Trustee located at the date hereof at Corporate Trust Operations, MAC N9300-070, 600 South Fourth Street, Minneapolis, MN 55415.

21 “Credit Agreement Agent” means, at any time, the Person serving at such time as the “Agent” or “Administrative Agent” under the Credit Agreement or any other representative then most recently designated in accordance with the applicable provisions of the Credit Agreement, together with its successors in such capacity.

22 “Credit Agreement Collateral” means any assets of the Issuer or any Guarantor that are subject to a lien or security interest in favor of a Credit Agreement Agent in order to secure the Credit Agreement Obligations; provided that, in no event shall the Credit Agreement Collateral include the Collateral.

23 “Credit Agreement Obligations” means all “Obligations,” “Secured Obligations” or similar term as defined in any Credit Agreement.

24 “Credit Facilities” means, with respect to the Issuer or any of its Subsidiaries, one or more debt facilities, indentures or other arrangements (including any credit facility, commercial paper facilities and overdraft facilities) with banks, other financial institutions or investors providing for revolving credit loans, term loans, notes receivables financing, letters of credit or other Indebtedness, including all agreements, instruments and documents executed and delivered pursuant thereto.

“Deed” means, with respect to each Designated Real Estate Asset, a special warranty deed, limited warranty deed or other local equivalent, transferring fee simple title to such Designated Real Estate Asset from Issuer to PropCo free and clear of any Liens other than Permitted Encumbrances.

25 “Default” means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default; *provided* that any Default that results solely from the taking of an action that would have been permitted but for the continuation of a previous Default will be deemed to be cured if such previous Default is cured prior to becoming an Event of Default.

26 “Designated Non-Cash Consideration” means the fair market value (as determined in good faith by the Issuer) of non-cash consideration received by the Issuer or any Subsidiary in connection with an Asset Disposition that is so designated as “Designated Non-Cash Consideration pursuant to an Officer’s Certificate, less the amount of cash, cash equivalents or other Permitted Investments received in connection with a subsequent sale of or collection on such Designated Non-Cash Consideration.

27 “Designated Preferred Stock” means Preferred Stock of the Issuer, as applicable (other than Excluded Equity), that is issued after the Issue Date for cash and is so designated as Designated Preferred Stock, pursuant to an Officer’s Certificate, on the issuance date thereof, the cash proceeds of which are excluded from the calculation set forth in Section 3.8(b) of this Indenture.

28 “Designated Real Estate Assets” means, initially, the Real Estate Assets listed on Exhibit D attached hereto, and any Substitute Designated Real Estate Asset pursuant to Section 12.1(e) of this Indenture.

29 “Disqualified Stock” means, with respect to any Person, any Equity Interests of such Person that, by its terms (or by the terms of any security into which it is convertible or for which it is puttable, redeemable or exchangeable), in each case, at the option of the holder thereof or upon the happening of any event:

(1) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (other than as a result of a change of control or asset sale; *provided* that the relevant change of control provisions, taken as a whole, are no more favorable in any material respect to holders of such Equity Interests than the change of control provisions applicable to the Notes and any purchase requirement triggered thereby may not become operative until compliance with the change of control provisions applicable to the Notes (including the purchase of any Notes tendered pursuant thereto));

(2) is convertible or exchangeable for Indebtedness or Disqualified Stock, or

(3) is redeemable at the option of the holder thereof, in whole or in part,

in each case, prior to the date that is 91 days after the earlier of the maturity date of the Notes and the date the Notes are no longer outstanding; *provided* that only the portion of Equity Interests that so mature or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; *provided, further*, that if such Equity Interests are issued to any employee or to any plan for the benefit of employees of the Issuer or its Subsidiaries or a direct or indirect parent of the Issuer or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Issuer or its Subsidiaries or a direct or indirect parent of the Issuer in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability; *provided, further*, that any class of Equity Interests of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of Equity Interests that are not Disqualified Stock shall not be deemed to be Disqualified Stock.

30 "Dollars" or "\$" means the lawful money of the United States of America.

"Domestic Subsidiary" means any Subsidiary that is not a Foreign Subsidiary.

31 "DTC" means The Depository Trust Company or any successor securities clearing agency.

32 "Equity Interests" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing (but excluding Indebtedness convertible or exchangeable into Equity Interests).

33 "Equity Offering" means a public or private offering or sale for cash by the Issuer of its Equity Interests (other than Disqualified Equity Interests).

34 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the final rules and regulations promulgated thereunder, as from time to time in effect.

35 "ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with the Issuer, is treated as a single employer under Section 414(b) or (c) of the Internal Revenue Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Internal Revenue Code, is treated as a single employer under Section 414 of the Internal Revenue Code.

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

37 "Excluded Contribution" means the net cash proceeds and cash equivalents, or the Fair Market Value of other assets, received by the Issuer after the Issue Date from:

(1) contributions to its common equity capital, and

(2) the sale of Capital Stock (other than Excluded Equity) of the Issuer,

38 in each case designated as Excluded Contributions pursuant to an Officer's Certificate, or that are utilized to make a Restricted Payment pursuant to Section 3.8(c)(v) of this Indenture. Excluded Contributions will be excluded from the calculation set forth in Section 3.8(b) of this Indenture.

39 "Excluded Equity" means (i) Disqualified Stock, (ii) any Equity Interests issued or sold to a Subsidiary or any employee stock ownership plan or trust established by the Issuer or any of its Subsidiaries or a direct or indirect parent of the Issuer (to the extent such employee stock ownership plan or trust has been funded by the Issuer or any Subsidiary or a direct or indirect parent of the Issuer) and (iii) any Equity Interest that has already been used or designated as (or the proceeds of which have been used or designated as) a Cash Contribution Amount, Designated Preferred Stock, an Excluded Contribution or Refunding Capital Stock.

40 "Fair Market Value" means the consideration received or paid in any transaction or series of transactions, a value that is fair and on market terms as determined by an Officer or the Board of Directors in good faith.

41 "Fitch" means Fitch Ratings, or any successor thereto.

42 "Four Quarter Period" means the period of the most recent four full consecutive Fiscal Quarters.

43 “Funded Debt” means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

(1) in respect of borrowed money or advances, and

(2) evidenced by loan agreements, bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof), whether or not then available or drawn.

44 For the avoidance of doubt, “Funded Debt” shall not include Hedging Obligations.

45 “GAAP” means the United States generally accepted accounting principles in effect as of the Issue Date. For purposes of determining compliance with any covenant contained herein, whether a lease constitutes a capitalized lease, and whether obligations arising under such lease are required to be capitalized on the balance sheet of the lessee thereunder and/or recognized as interest expense in such lessee’s financial statements, shall be determined in accordance with GAAP as in effect on February 3, 2018 notwithstanding any modification or interpretive change occurring thereafter.

46 “Governmental Approval” means any Permit, ruling or determination by any Governmental Authority required to be obtained with respect to any Designated Real Estate Asset or the ownership, occupation, testing, operation or maintenance thereof.

47 “Governmental Authority” means the government of the United States of America, any other nation or 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.

48 “Guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

(1) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(2) entered into primarily for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, however, that the term “Guarantee” will not include endorsements for collection or deposit in the ordinary course of business or consistent with past practice. The term “Guarantee” used as a verb has a corresponding meaning.

49 “Guaranteed Ratio Debt” means an amount of Indebtedness incurred by any of the Guarantors if on the date of such incurrence and after giving pro forma effect thereto (including pro forma application of the proceeds thereof) the Total Guaranteed Leverage Ratio of the Issuer and its Subsidiaries does not exceed 2.75 to 1.00.

50 “Guarantors” means any Subsidiary that Guarantees the Notes, until such Note Guarantee is released in accordance with the terms of this Indenture.

51 “Hedge Agreement” means any Swap Contract; provided that the counterparty thereto has delivered a joinder to the Collateral Trust Agreement in the form required under the Collateral Trust Agreement in respect thereof and the other requirements of the Collateral Trust Agreement have been complied with. “Hedge Agreement” shall include both any Swap Contract constituting a “master agreement” and any related Swap Transaction; provided, however, that such joinder to the Collateral Trust Agreement referred to in this definition shall only be required once for each master agreement and shall not be required for each individual Swap Transaction thereunder.

52 “Hedge Provider” means the counterparty to the Issuer or any Guarantor under any Hedge Agreement.

53 “Hedging Obligations” means, with respect to any specified Person and with respect to any Series of Parity Lien Debt, the obligations of such Person under any Hedge Agreement, which Obligations constitute “Obligations” or “Secured Obligations” as defined in the Parity Lien Documents of such Series of Parity Lien Debt, in each case that are designated by the Issuer to the Collateral Trustee and each Parity Lien Representative as Hedging Obligations by written notice in accordance with the terms of the Collateral Trust Agreement.

54 “Holder” means each Person in whose name the Notes are registered on the registrar’s books, which shall initially be the respective nominee of DTC.

55 “Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding (i) accounts payable incurred in the ordinary course of business and consignment purchases, (ii) any earn-out obligation contingent upon performance of an acquired business,

except to the extent such obligation would be required to be reflected on a consolidated balance sheet of the Issuer prepared in accordance with GAAP and (iii) accruals for payroll and other liabilities accrued in the ordinary course of business), (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed (*provided* that with respect to Indebtedness that is nonrecourse to the credit of that Person, such Indebtedness shall be taken into account only to the extent of the lesser of (x) the fair market value of the asset(s) subject to such Lien and (y) the amount of Indebtedness secured), (f) all Guarantees by such Person of Indebtedness of others, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (i) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (j) all Off-Balance Sheet Liabilities and (k) Disqualified Equity Interests. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor. For the avoidance of doubt, any preferred Equity Interests (other than any Disqualified Equity Interests) of any Person that are convertible into common Equity Interests (other than any Disqualified Equity Interests) of such Person shall not constitute Indebtedness of such Person. For the avoidance of doubt, obligations in respect of Swap Agreements shall not constitute Indebtedness.

56 "Insolvency or Liquidation Proceeding" means:

(1) any voluntary or involuntary case commenced by or against the Issuer or any Guarantor under Title 11, U.S. Code or any similar federal or state law for the relief of debtors, any other proceeding for the reorganization, recapitalization, receivership, liquidation or adjustment or marshaling of the assets or liabilities of the Issuer or any Guarantor, any receivership or assignment for the benefit of creditors relating to the Issuer or any Guarantor or any similar case or proceeding relative to the Issuer or any Guarantor or its creditors, in each case whether or not voluntary; or

(2) any liquidation, dissolution, marshaling of assets or liabilities or other winding up of or relating to the Issuer or any Guarantor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency; or

(3) any other proceeding of any type or nature in which substantially all claims of creditors of the Issuer or any Guarantor are determined and any payment or distribution is or may be made on account of such claims.

57 "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended to the date hereof and from time to time hereafter, and any successor statute.

58 "Investment Grade" means a rating of BBB- or better by Fitch (or its equivalent under any successor rating categories of Fitch), Baa3 or better by Moody's (or its equivalent under any successor rating categories of Moody's) and BBB- or better by S&P (or its equivalent under any successor rating categories of S&P) or the equivalent investment grade credit rating from any additional Rating Agency or Rating Agencies selected by the Company.

59 "Issue Date" means April 16, 2020.

60 "Leasehold Property" means any leasehold interest of the Issuer or any Guarantor as lessee under any lease of real property.

61 "Lien" means with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset, excluding operating leases.

62 "Lien Sharing and Priority Confirmation" means, as to any Series of Parity Lien Debt, the written agreement of the holders of such Series of Parity Lien Debt, as set forth in this Indenture, credit agreement or other agreement governing such Series of Parity Lien Debt, for the enforceable benefit of each other current and future Parity Lien Representative and each current and future Parity Lien Secured Party:

(1) that all Parity Lien Obligations will be and are secured equally and ratably by all Parity Liens at any time granted by the Issuer or any Guarantor to secure any Obligations in respect of such Series of Parity Lien Debt and that all such Parity Liens will be enforceable by the Collateral Trustee for the benefit of all Parity Lien Secured Parties equally and ratably; *provided, however,* that notwithstanding the foregoing, (x) this provision will not be violated with respect to any particular Collateral and any particular Series of Parity Lien Debt if the Parity Lien Debt Documents in respect thereof prohibit the applicable Parity Lien Representative from accepting the benefit of a Lien on any particular asset or property or such Parity Lien Representative otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property and (y) this provision will not be violated with respect to any particular Hedging Obligations if the Hedge Agreement prohibits the applicable Hedge Provider from accepting the benefit of a Lien on any particular asset or property or such Hedge Provider otherwise expressly declines in writing to accept the benefit of a Lien on such asset or property; and

(2) that the holders of Obligations in respect of such Series of Parity Lien Debt are bound by the provisions of the Collateral Trust Agreement, including the provisions relating to the ranking of Parity Liens and the order of application of proceeds from the enforcement of Parity Liens.

63 “Master Lease” means, collectively or individually, as the context may require, (i) that certain Nordstrom Master Lease (Distribution Center) between PropCo and the Issuer, dated as of April 16, 2020, and (ii) that certain Nordstrom Master Lease (FLS) between PropCo and the Issuer, dated as of April 16, 2020.

64 “Material Real Property Document” means, with respect to any Designated Real Estate Asset, any agreement, document or instrument relating to such Designated Real Estate Asset that is material in relation to the use, business or operation of the applicable Designated Real Property Asset.

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

66 “Mortgage” means a mortgage, deed of trust, deed to secure debt, security deed, trust deed or spreader of lien, as it may be amended, restated supplemented or otherwise modified from time to time.

67 “Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA maintained, sponsored or contributed by the Issuer or any ERISA Affiliate.

68 “Net Available Cash” means, with respect to any Asset Disposition or Casualty Event, an amount equal to: (i) cash payments (including any cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) received by the Issuer or any of its Subsidiaries from such Asset Disposition or Casualty Event, *minus* (ii) any bona fide direct costs incurred in connection with such Asset Disposition or Casualty Event, including (a) income or gains taxes payable by the seller as a result of any gain recognized in connection with such Asset Disposition, (b) payment of the outstanding principal amount of, premium or penalty, if any, and interest on any Indebtedness (other than the Notes and Indebtedness that is secured by a Lien on the Collateral on a basis that is *pari passu* with or junior to the Notes) that is secured by a Lien on the stock or assets in question and that is required to be repaid under the terms thereof as a result of such Asset Disposition or Casualty Event and (c) a reasonable reserve for any indemnification payments (fixed or contingent) attributable to seller’s indemnities and representations and warranties to purchaser in respect of such Asset Disposition undertaken by the Issuer or any of its Subsidiaries in connection with such Asset Disposition; *provided* that upon release of any such reserve to the Issuer or any of its Subsidiaries, the amount released shall be considered Net Available Cash.

69 “Net Tangible Assets” means the aggregate amount at which the assets of the Issuer and its Subsidiaries are reflected, in accordance with GAAP as in effect on the Issue Date, on the asset side of the consolidated balance sheet of the Issuer and its Subsidiaries, as of the end of the most recent Fiscal Quarter for which financial statements shall at such time have been delivered pursuant to [Section 3.12](#) or otherwise prepared (or prior to delivery of such financial statements, as of the end of the most recent Fiscal Quarter (or Fiscal Year) with respect to which historical financial statements have been delivered or otherwise prepared) (after deducting all valuation and qualifying reserves relating to such assets), except any of the following described items that may be included among such assets: (a) trademarks, patents, goodwill and similar intangibles, (b) investments in and advances to Subsidiaries, and (c) capital lease property rights, after deducting from such amount current liabilities (other than deferred Tax effects) as reflected, in accordance with GAAP as in effect on the Issue Date, on such balance sheet.

70 “Non-Guarantor” means any Subsidiary of the Issuer that is not a Guarantor.

71 “Note Documents” means this Indenture, the Notes and the Parity Lien Security Documents securing the Obligations in respect thereof.

72 “Obligations” means any principal, interest, (including Post-Petition Interest or entitlement to fees or expenses or other charges accruing on or after the filing of any petition or application in bankruptcy or insolvency case or proceeding or for reorganization relating to the Issuer or any Guarantor whether or not a claim for Post-Petition Interest is allowed or allowable in such proceedings), penalties, fees, expenses, indemnifications, reimbursements (including, without limitation, reimbursement obligations with respect to letters of credit and bankers’ acceptances), damages and other liabilities payable under the documentation governing any Indebtedness.

73 “Off-Balance Sheet Liability” of a Person means (a) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person or (b) any indebtedness, liability or obligation under any so-called “synthetic lease” transaction entered into by such Person. For the avoidance of doubt, any preferred Equity Interests (other than any Disqualified Equity Interests) of any Person that are convertible into common Equity Interests (other than any Disqualified Equity Interests) of such Person shall not constitute an Off-Balance Sheet Liability of such Person.

74 “Officer” means, with respect to any Person, the Chairman of the Board, any Vice Chairman of the Board, the Chief Executive Officer, the President, any Executive Vice President, any Senior Vice President, the Chief Financial Officer, the Treasurer or Corporate Treasurer, any Assistant Treasurer or Assistant Corporate Treasurer, the Controller or Corporate Controller, any Assistant Controller or Assistant Corporate Controller, the General Counsel, any Vice President, the Secretary or Corporate Secretary or any Assistant Secretary or Assistant Corporate Secretary of such Person.

75 “Officer’s Certificate” means, with respect to any Person, a certificate signed by one Officer of such Person.

“Opinion of Counsel” means a written opinion from legal counsel, who may be an employee of, or counsel to, the Issuer, or other counsel who is acceptable to the Trustee.

76 “Paying Agent” means any Person authorized by the Issuer to pay the principal of (and premium, if any) or interest on any Note on behalf of the Issuer.

77 “Parity Lien” means a Lien granted, or purported to be granted, by a Security Document to the Collateral Trustee, at any time, upon any property of the Issuer or any Guarantor to secure Parity Lien Obligations.

78 “Parity Lien Debt” means:

(1) the Notes issued on the date of this Indenture;

(2) any other Funded Debt (including additional Notes), that is secured by a Parity Lien and that was permitted to be incurred and permitted to be so secured under each applicable Parity Lien Debt Document; *provided*, in the case of any Funded Debt referred to in clause (2) of this definition, that:

(i) on or before the date on which such Funded Debt is incurred by the Issuer or by a Subsidiary, such Funded Debt is designated by the Issuer, in an officers’ certificate in the form required under the Collateral Trust Agreement delivered to each Parity Lien Representative and the Collateral Trustee, as “Parity Lien Debt” for the purposes of this Indenture and the Collateral Trust Agreement;

(ii) unless such Funded Debt is issued under an existing Parity Lien Debt Document for any Series of Parity Lien Debt whose Parity Lien Debt Representative is already party to the Collateral Trust Agreement, the Parity Lien Representative for such Funded Debt executes and delivers a joinder in the form required under the Collateral Trust Agreement; and

(iii) all other requirements set forth in the Collateral Trust Agreement as to the confirmation, grant or perfection of the Collateral Trustee’s Liens to secure such Funded Debt in respect thereof are satisfied (and the satisfaction of such requirements and the other provisions of this clause (c) will be conclusively established if the Issuer delivers to the Collateral Trustee an officers’ certificate and opinion of counsel in the form required under the Collateral Trust Agreement stating that such requirements and other provisions have been satisfied and that such Funded Debt is “Parity Lien Debt”).

For the avoidance of doubt, Hedging Obligations do not constitute Parity Lien Debt but may constitute Parity Lien Obligations.

79 “Parity Lien Documents” means, collectively, the Note Documents and any other indenture, credit agreement or other agreement pursuant to which any Parity Lien Debt is incurred and the Parity Lien Security Documents.

80 “Parity Lien Obligations” means Parity Lien Debt and all other Obligations in respect thereof including, without limitation interest and premium (if any) (including Post-Petition Interest whether or not allowable), together with all Hedging Obligations and all guarantees of any of the foregoing. In addition to the foregoing, all obligations owing to the Collateral Trustee in its capacity as such, whether pursuant to the Collateral Trust Agreement or one or more of the Priority Lien Obligations (with the obligations described in this sentence being herein referred to as the “*Collateral Trustee Obligations*”), which Collateral Trustee Obligations shall be entitled to the priority provided pursuant to the Collateral Trust Agreement.

81 “Parity Lien Representative” means:

(1) in the case of the Notes, the Trustee; and

(2) in the case of any other Series of Parity Debt, the trustee, agent or representative of the holders of such Series of Parity Lien Debt who maintains the transfer register for such Series of Parity Lien Debt and (A) is appointed as a representative for such Parity Lien Debt (for purposes related to the administration of the Security Documents) pursuant to this Indenture, credit agreement or other agreement governing such Series of Parity Lien Debt and (B) has become a party to the Collateral Trust Agreement by executing a joinder in the form required under the Collateral Trust Agreement, together with its successors and assigns in such capacity.

82 “Parity Lien Secured Parties” means the holders of Parity Lien Obligations and each Parity Lien Representative.

83 “Parity Lien Security Documents” means all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements, control agreements or other grants or transfers for security executed and delivered by the Issuer or any Guarantor creating or perfecting (or purporting to create or perfect) a Lien upon Collateral in favor of the Collateral Trustee, for the benefit of any of the Parity Lien Secured Parties, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time, in accordance with its terms and pursuant to Sections 9.1 and 9.2 of this Indenture.

84 “Permit” means any license, certificate, action, approval, consent, waiver, exemption, variance, franchise, order, permit, authorization, right, registration, filing or submission filed with or obtained from a Governmental Authority.

85 “Permitted Encumbrances” means:

(a) Liens imposed by law for Taxes, assessments or governmental charges or levies that, in each case, are not overdue by more than 30 days or are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves with respect thereto are maintained in accordance with GAAP;

(b) carriers’, warehousemen’s, mechanics’, landlords’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 30 days (or, in the case of a landlords’ Lien, beyond any notice and cure period under the applicable real property lease) or are being contested;

(c) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance, employers’ health taxes and other social security laws or regulations or similar legislation or to secure letters of credit, bank guarantees or similar instruments supporting such obligations;

(d) pledges or deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds or obligations to insurance carriers and other obligations of a like nature, in each case in the ordinary course of business or to secure letters of credit, bank guarantees or similar instruments supporting such obligations;

(e) judgment liens in respect of judgments that do not constitute an Event of Default;

(f) easements, restrictions (including zoning restrictions), rights-of-way and other encumbrances, title defects and matters of record affecting real property that do not materially detract from the value of the Collateral, taken as a whole, or interfere with the ordinary conduct of business of the Issuer and its Subsidiaries, taken as a whole;

(g) the special property interest of a consignor in respect of goods subject to consignment;

(h) Liens (i) in favor of banks, other financial institutions, securities or commodities intermediaries or brokerage arising as a matter of law encumbering deposits of cash, securities, commodities and other funds maintained with such Persons (including rights of set off) and that are within the general parameters customary in such Person’s industry, (ii) deemed to exist in connection with investments in repurchase agreements described in clause (d) of the definition of “Permitted Investments,” (iii) attaching to commodity trading accounts or other brokerage accounts in the ordinary course of business securing obligations owed to the institutions with which such accounts are maintained, (iv) that are contractual rights of setoff (x) relating to the establishment of depository relations with banks or other deposit-taking financial institutions in the ordinary course of business and not given in connection with the issuance of Indebtedness or (y) relating to pooled deposit or sweep accounts of the Issuer or any of its Subsidiaries to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business and (v) that are rights of set-off (or holdbacks or reserves established by a credit card issuer or processor) against credit balances of the Issuer or any of its Subsidiaries with credit card issuers or credit card processors or amounts owing by such credit card issuers or credit card processors to the Issuer or any of its Subsidiaries, or Liens on returned merchandise in favor of such issuers or processors, in each case in the ordinary course of business, but not rights of set-off against any other property or assets of the Issuer or any of its Subsidiaries pursuant to agreements with credit card issuers or credit card processors to secure the obligations of the Issuer or any of its Subsidiaries to credit card issuers or credit card processors as a result of fees and chargebacks;

(i) Liens of a collecting bank under Section 4-210 of the UCC in effect in the relevant jurisdiction (or Section 4-208 in the case of the New York UCC) on items in the course of collection;

(j) Liens of sellers of goods to the Issuer or a Subsidiary arising as a matter of law under Article 2 of the UCC in effect in the relevant jurisdiction or similar provisions of applicable law, in each case in the ordinary course of business;

(k) licenses of patents, trademarks and other intellectual property rights of the Issuer or any of its Subsidiaries, in each case in the ordinary course of business and not materially interfering with the conduct of business by the Issuer and its Subsidiaries, taken as a whole;

(l) Liens solely on any cash earnest money deposits made by the Issuer or any of its Subsidiaries in connection with any letter of intent or purchase agreement entered into by it;

(m) Liens incurred in the ordinary course of business in connection with the shipping of goods on the related goods and proceeds thereof in favor of the shipper of such goods;

(n) as to any Leasehold Property, any Lien encumbering the underlying fee estate or master or primary lease in connection therewith so long as such fee estate or landlord (or similar) interest is not held by a Person that is the Issuer or a Guarantor or an Affiliate of the Issuer or a Guarantor; and

(o) any matters affirmatively insured over or exceptions noted in the final title polices issued in connection with the Mortgages;

provided that the term “Permitted Encumbrances” shall not include any Lien against Collateral securing Indebtedness for borrowed money.

86 “Permitted Indebtedness” means:

- (a) obligations incurred by any Guarantor arising from agreements providing for customary indemnification, earnouts, adjustment of purchase price, non-compete, consulting or other similar obligations, in each case arising in connection with acquisitions or dispositions of any business, assets or subsidiary of such Guarantor permitted under this Indenture;
- (b) Indebtedness in respect of (i) the financing of insurance premiums or (ii) take-or-pay or minimum buy obligations contained in supply agreements, in each case incurred in the ordinary course of business;
- (c) obligations in respect of deferred compensation to employees of any Guarantor in the ordinary course of business;
- (d) (i) obligations of any Guarantor incurred in the ordinary course of business in respect of performance guarantees, completion guarantees, performance bonds, bid bonds, appeal bonds, surety bonds, judgment bonds, replevin bonds and similar bonds, self-insurance and other similar obligations to the extent any such obligations constitute Indebtedness and (ii) obligations in respect of letters of credit, bank guarantees or similar instruments supporting any such obligations or obligations described in clauses (c) and (d) of the definition of “Permitted Encumbrances;”
- (e) customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business; and
- (f) Indebtedness incurred in the ordinary course of business in respect of cash management; netting services; automatic clearinghouse arrangements; employee credit card, debit card, prepaid card, purchase card or other payment card programs; overdraft protections and other bank products and similar arrangements and Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument of a Guarantor drawn against insufficient funds in the ordinary course of business that is promptly repaid.

87 “Permitted Investments” means:

- (a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency or instrumentality thereof);
- (b) investments in commercial paper maturing no more than one year from the date of creation thereof and having, at the time of the acquisition thereof, a credit rating of at least A2 from S&P, P2 from Moody’s or F2 from Fitch;
- (c) investments in certificates of deposit, bankers’ acceptances and time deposits issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, (i) any domestic or offshore office of any commercial bank organized under the laws of the United States of America or any State thereof, (ii) any office located within the United States of America or in a foreign jurisdiction that has an income tax treaty with the United States of America of a commercial bank organized under the laws of another country or (iii) any office located in London of any commercial bank organized under the laws of the United States of America, any Asian country or any European country, in each case which, at the time of acquisition, has a combined capital and surplus and undivided profits of not less than \$500,000,000; *provided, however*, that investments with any bank that has a combined capital and surplus and undivided profits of less than \$500,000,000 are permitted if the Issuer maintains a banking relationship with such bank;
- (d) collateralized repurchase agreements with a term of not more than 365 days and entered into with a financial institution satisfying the criteria described in clause (c) above (i) that has a combined capital and surplus and undivided profits of not less than \$500,000,000 or (ii) whose obligations under any such agreements is guaranteed by an entity that has a combined capital and surplus and undivided profits of not less than \$500,000,000; and
- (e) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940 (the “Investment Company Act”) and (ii) have portfolio assets of at least \$3,000,000,000; *provided* that investments in any money market fund with portfolio assets of less than \$3,000,000,000 are permitted if such fund has received a rating of AAA from S&P or Aaa from Moody’s.

88 “Permitted Liens” means each of the following:

- (a) Liens on the Collateral securing Parity Lien Obligations in respect of (i) Parity Lien Debt (and Parity Lien Obligations in respect thereof) so long as immediately after giving pro forma effect to the incurrence of such Indebtedness and the use of proceeds thereof, the Collateral Coverage Ratio shall be at least 2.00 to 1.00 and (ii) refinancings, extensions, renewals and replacements of Indebtedness secured by Liens described in subclauses (i) that do not increase the outstanding principal amount thereof, other than in respect of any accrued interest, premium, fees, costs or expenses payable in connection with such extension, renewal or replacement;
- (b) Liens on the Collateral in favor of the Collateral Trustee securing Parity Lien Obligations in respect of (i) Notes and related Note Guarantees issued on the Issue Date, (ii) refinancings, extensions, renewals and replacements of Indebtedness

secured by Liens described in subclauses (i) above that do not increase the outstanding principal amount thereof, other than in respect of any accrued interest, premium, fees, costs or expenses payable in connection with such extension, renewal or replacement;

(c) Permitted Encumbrances;

(d) any Lien on any property or asset that constitutes Collateral of the Issuer or any Subsidiary existing on the Issue Date; *provided* that (i) such Lien shall not apply to any other property or asset of the Issuer or any Subsidiary and (ii) such Lien shall secure only those obligations which it secured on the Issue Date and refinancings, extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof, other than in respect of any accrued interest, premium, fees, costs or expenses payable in connection with such extension, renewal or replacement;

(e) [Reserved];

(f) [Reserved];

(g) Liens in respect of leases, subleases, licenses and any other occupancy rights or agreements granted to other Persons in the ordinary course of business and not materially interfering with the conduct of business of the Issuer and its Subsidiaries, taken as a whole;

(h) Liens in favor of customs and revenue authorities arising as a matter of law securing payment of customs duties in connection with the importation of goods;

(i) the sale or discount, in the ordinary course of business, of accounts receivable in connection with the compromise or collection thereof and not in connection with any financing or factoring arrangement;

(j) [Reserved];

(k) to the extent constituting a Lien, sales or assignments of any litigation claims or rights to receive payments with respect to any such claims;

(l) to the extent constituting a Lien, sales or assignments of any right to receive rental payments permitted pursuant to Section 3.5 of this Indenture;

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

(n) other Liens securing obligations (including Parity Lien Obligations) that do not exceed \$100,000,000.

89 "Person" means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and Governmental Authorities.

90 "Plan" means any pension plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Internal Revenue Code or Section 302 of ERISA that is maintained, sponsored or contributed to by the Issuer or any ERISA Affiliate.

91 "Post-Petition Interest" means any interest, fees, expenses or other amount that accrues or would have accrued after the commencement of any Insolvency or Liquidation Proceeding, whether or not allowed or allowable in any such Insolvency or Liquidation Proceeding.

92 "Preferred Stock" means any Equity Interest with preferential right of payment of dividends or upon liquidation, dissolution or winding up.

93 "Pro Forma Basis" means, with respect to the calculation of any test, financial ratio, basket or covenant under this Indenture, including the Total Guaranteed Leverage Ratio and the Collateral Coverage Ratio and the calculation of Net Tangible Assets, of any Person and its Subsidiaries, as of any date, that pro forma effect will be given to any acquisition, merger, amalgamation, consolidation, Investment, any issuance, Incurrence, assumption or repayment or redemption of Indebtedness (including Indebtedness issued, Incurred or assumed or repaid or redeemed as a result of, or to finance, any relevant transaction and for which any such test, financial ratio, basket or covenant is being calculated, including, without limitation, the issuance of the Notes, the use of proceeds thereof and the amendment to the Revolving Credit Facility), any issuance or redemption of Preferred Stock or Disqualified Stock, all sales, transfers and other dispositions or discontinuance of any Subsidiary, line of business, division, segment or operating unit, any operational change, in each case that have occurred during the four consecutive fiscal quarter period of such Person being used to calculate such test, financial ratio, basket or covenant (the "Reference Period"), or subsequent to the end of the Reference Period but prior to such date or prior to or substantially simultaneously with the event for which a determination under this definition is made (including any such event occurring at a Person who became a Subsidiary of the subject Person or was merged, amalgamated or consolidated with or into the subject Person or any other Subsidiary of the subject Person after the commencement of the Reference Period), as if each such event occurred on the first day of the Reference

Period. In the event that the Issuer shall classify Indebtedness or Liens Incurred on the date of determination as Incurred in part as Guaranteed Ratio Debt or under the Collateral Coverage Ratio, respectively, and in part pursuant to one or more clauses of the definition of “Permitted Debt” or one or more clauses of the definition of “Permitted Liens,” as applicable, any calculation of Consolidated Total Debt or of Parity Lien Obligations, as applicable, in each case pursuant to this definition on such date (but not in respect of any future calculation following such date) shall not include any such Indebtedness or Liens, as applicable (and shall not give effect to any repayment, repurchase, redemption, defeasance or other acquisition, retirement or discharge of Indebtedness or Liens, as applicable, from the proceeds thereof) to the extent Incurred pursuant to any such other clause of such definitions, respectively.

94 For purposes of making any computation referred to above:

(1) 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 for which a determination under this definition is made had been the applicable rate for the entire period (taking into account any Swap Contracts applicable to such Indebtedness if such Swap Contracts have a remaining term in excess of 12 months);

(2) interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer, in his or her capacity as such and not in his or her personal capacity, of the Issuer or a direct or indirect parent of the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP;

(3) interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate;

(4) interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period; and

(5) to the extent not already covered above, any such calculation may include adjustments calculated in accordance with Regulation S-X under the Securities Act.

95 “PropCo” means Nordstrom Real Estate Holdings, LLC.

96 “Rating Agency” means (1) each of Fitch, Moody’s and S&P; and (2) if any of Fitch, Moody’s or S&P ceases to rate the Notes or fails to make a rating of the Notes publicly available for reasons outside of the Company’s control, a “nationally recognized statistical rating organization” within the meaning of Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act, selected by the Company as a replacement agency for Fitch, Moody’s or S&P, as the case may be.

97 “Real Estate Asset” means, at any time of determination, any interest (fee, leasehold or otherwise) then owned by the Issuer or any Guarantor in any real property.

98 “S&P” means S&P Global Ratings, the credit ratings business operated by S&P Global Inc. and its subsidiaries.

99 “SEC” means the Securities and Exchange Commission or any successor thereto.

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

101 “Security Documents” means the Collateral Trust Agreement, each Lien Sharing and Priority Confirmation, and each Parity Lien Security Document, in each case, as amended, modified, renewed or restated, in whole or in part, from time to time, in accordance with its terms and pursuant to Sections 9.1 and 9.2 of this Indenture.

102 “Series of Parity Lien Debt” means, severally, the Notes and each other issue or series of Parity Lien Debt for which a single transfer register is maintained. For the avoidance of doubt, all reimbursement obligations in respect of letters of credit issued pursuant to a Parity Lien Document shall be part of the same Series of Parity Lien Debt as all other Parity Lien Debt incurred pursuant to such Parity Lien Document.

103 “Significant Subsidiary” means any Subsidiary that would constitute a “significant subsidiary” of the Issuer as defined in Rule 1-02(w) of Regulation S-X under the Securities Act and the Exchange Act as in effect on the Issue Date.

104 “Stated Maturity” means, with respect to any security, the date specified in such security as the fixed date on which the payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but shall not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

105 “Subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity of which securities or other

ownership interests representing more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned or held; *provided* that Excluded Subsidiaries shall not be considered “Subsidiaries” of the Issuer for purposes hereof. Unless the context requires otherwise, any reference to a “Subsidiary” contained herein shall refer to a Subsidiary of the Issuer.

106 “Substitute Designated Real Estate Asset” has the meaning ascribed to such term in Section 10.1(d) herein.

107 “Swap Agreement” means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; *provided* that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Issuer or the Subsidiaries shall be a Swap Agreement. For the avoidance of doubt, “Swap Agreement” will include a swap transaction pursuant to which the obligations of the Issuer or applicable Guarantor to make scheduled payments thereunder are deferred (including, without limitation, payment obligations that are deferred to the scheduled termination date of such transaction so that such Issuer or Guarantor makes a single payment thereunder on such scheduled termination date).

108 “Swap Contract” means (a) any and all interest 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 for 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 such obligations or liabilities under any Master Agreement.

109 “Swap Transactions” means any and all such transactions of any kind, and the related confirmations, that are subject to the terms and conditions of, or governed by, any Hedge Agreement.

110 “Tax” or “Taxes” means any present or future tax, levy, impost, duty, deduction, withholding (including backup withholding), assessment, fee or other charge imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

111 “Total Guaranteed Leverage Ratio” means, as of any date of determination, the ratio of (i)(x) any Consolidated Total Debt that is incurred or guaranteed by any of the Guarantors as of such date *minus* (y) the aggregate stated balance sheet amount of unrestricted cash and cash equivalents of the Issuer and its Subsidiaries as of such date; to (ii) Consolidated Adjusted EBITDA for the Four Quarter Period ending prior to the date of such determination for which financial statements have been delivered pursuant to the covenant titled “Reports” (or prior to delivery of such financial statements, with respect to which historical financial statements have been prepared), in each case calculated on a Pro Forma Basis.

112 “Treasury Rate” means, with respect to the Notes, as of the applicable redemption date, the weekly average rounded to the nearest 1/100th of a percentage point (for the most recently completed week for which such information is available as of the date that is two business days prior to the redemption date) of the yield to maturity of United States Treasury Securities with a constant maturity (as compiled and published in Federal Reserve Statistical Release H.15 with respect to each applicable day during such week or, if such Statistical Release is no longer published, any publicly available source of similar market data) most nearly equal to the period from the redemption date to May 15, 2022; *provided, however*, that if the period from such redemption date to May 15, 2022 is not equal to the constant maturity of a United States Treasury Security for which such a yield is given, the Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury Securities for which such yields are given, except that if the period from the redemption date to May 15, 2022 is less than one year, the weekly average yield on actually traded United States Treasury Securities adjusted to a constant maturity of one year shall be used.

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

114 “UCC” means the Uniform Commercial Code as in effect in the State of New York or, when the laws of any other jurisdiction govern the perfection or enforcement of any security interest, the Uniform Commercial Code of such jurisdiction.

115 “U.S. Government Obligations” means securities which are (1) direct obligations of the United States of America for the payment of which its full faith and credit is pledged, or (2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, *provided* that the payment of such obligations is unconditionally Guaranteed as a full faith and credit obligation by the United States of America. The term “U.S. Government Obligations” shall also include depository receipts issued by a bank or trust company as custodian and evidencing ownership by the holders of such depository receipts of future payments of interest or principal, or both, on U.S. Government Obligations, as defined above, held by such custodian; *provided* that except as required by law, no deduction may be made by the custodian from the amount payable to the holder of any such depository receipt from the amount received by the custodian in respect of any such payment of interest or principal.

SECTION 1.2. Other Definitions.

<u>Term</u>	<u>Defined in Section</u>
“Additional Restricted Notes”	2.1(b)
“Agent Members”	2.1(e)(ii)
“Asset Disposition Offer”	3.5(b)
“Authenticating Agent”	2.2
“Automatic Exchange”	2.6(e)
“Automatic Exchange Date”	2.6(e)
“Change of Control Offer”	3.11(a)
“Change of Control Payment”	3.11(a)
“Change of Control Payment Date”	3.11(a)
“Clearstream”	2.1(a)
“Defaulted Interest”	2.11
“Defeasance”	8.2
“Euroclear”	2.1(a)
“Event of Default”	6.1(a)
“Excess Proceeds”	3.5(b)
“Global Notes”	2.1(a)
“Guaranteed Obligations”	10.1
“Issuer Order”	2.2
“Legal Holiday”	13.7
“Note Guarantees”	10.1
“Notes Register”	2.3
“protected purchaser”	2.7
“Redemption Date”	5.1
“Registrar”	2.3
“Regulation S Global Note”	2.1(a)

“Regulation S Notes”	2.1(a)
“Restricted Global Note”	2.6(e)
“Restricted Period”	2.1(a)
“Rule 144A Global Note”	2.1(a)
“Rule 144A Notes”	2.1(a)
“Satisfaction and Discharge”	11.1
“Secured Indebtedness”	6.1(a)(iv)
“Special Interest Payment Date”	2.11(a)
“Special Record Date”	2.11(a)
“TIA”	1.4
“Unrestricted Global Note”	2.6(e)
“USA PATRIOT Act”	13.11

SECTION 1.3. Rules of Construction. Unless the context otherwise requires:

- (i) a term has the meaning assigned to it;
- (ii) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (iii) “or” is not exclusive;
- (iv) “including” means including without limitation;
- (v) words in the singular include the plural and words in the plural include the singular;
- (vi) “will” shall be interpreted to express a command;
- (vii) all amounts expressed in this Indenture or in any of the Notes in terms of money refer to the lawful currency of the United States of America;
- (viii) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision of this Indenture; and
- (ix) references to “Article,” “Section” or other subdivision herein are references to an Article, Section or other subdivision of this Indenture.

SECTION 1.4. Inapplicability of the Trust Indenture Act. No provisions of the Trust Indenture Act of 1939, as amended (the “TIA”), are incorporated by reference in or made a part of this Indenture unless explicitly incorporated by reference. Unless specifically provided in this Indenture, no terms that are defined under the TIA have such meanings for purposes of this Indenture.

Article II.

THE NOTES

SECTION 2.1. Form, Dating and Terms.

(a) The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is unlimited. The Initial Notes issued on the date hereof will be in an aggregate principal amount of \$600,000,000. In addition, the Issuer may issue, from time to time in accordance with the provisions of this Indenture, Additional Notes. Furthermore, Notes may be authenticated and delivered upon registration of transfer, exchange or in lieu of other Notes pursuant to Section 2.2, 2.6, 2.7, 2.9,

5.6 or 9.5, in connection with an Asset Disposition Offer pursuant to Section 3.5 or in connection with a Change of Control Offer pursuant to Section 3.11.

Notwithstanding anything to the contrary contained herein, the Issuer may not issue any Additional Notes, unless such issuance is in compliance with Sections 3.6 and 3.13.

With respect to any Additional Notes, the Issuer shall set forth in an Officer's Certificate or one or more indentures supplemental hereto, the following information:

- (i) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture;
- (ii) the issue price and the issue date of such Additional Notes, including the date from which interest shall accrue; and
- (iii) whether such Additional Notes shall be Restricted Notes.

In authenticating and delivering Additional Notes, the Trustee shall receive and shall be fully protected in conclusively relying upon the Opinion of Counsel and Officer's Certificate required by Section 13.3.

The Initial Notes and the Additional Notes shall be considered collectively as a single class for all purposes of this Indenture. Holders of the Initial Notes and the Additional Notes will vote and consent together on all matters to which such Holders are entitled to vote or consent as one class, and none of the Holders of the Initial Notes or the Additional Notes shall have the right to vote or consent as a separate class on any matter to which such Holders are entitled to vote or consent.

Initial Notes and any Additional Notes that are Restricted Notes ("Additional Restricted Notes") offered and sold to QIBs in the United States of America in reliance on Rule 144A (the "Rule 144A Notes") shall be issued in the form of a permanent global Note substantially in the form of Exhibit A, which is hereby incorporated by reference and made a part of this Indenture, including appropriate legends as set forth in Sections 2.1(c) and (d) (the "Rule 144A Global Note"), deposited with the Trustee, as custodian for DTC, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. The Rule 144A Global Note may be represented by more than one certificate, if so required by DTC's rules regarding the maximum principal amount to be represented by a single certificate. The aggregate principal amount of the Rule 144A Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee, as Notes Custodian for DTC or its nominee, as hereinafter provided.

Initial Notes and any Additional Restricted Notes offered and sold outside the United States of America (the "Regulation S Notes") in reliance on Regulation S shall be issued in the form of a permanent global Note (the "Regulation S Global Note") in the form of Exhibit A including appropriate legends as set forth in Sections 2.1(c) and (d). Each Regulation S Global Note will be deposited upon issuance with, or on behalf of, the Trustee as Notes Custodian for DTC in the manner described in this Article II for credit to the respective accounts of the purchasers (or to such other accounts as they may direct), including, but not limited to, accounts at Euroclear Bank S.A./N.V. ("Euroclear") or Clearstream Banking, *société anonyme* ("Clearstream"). Prior to the 40th day after the later of the commencement of the offering of the Initial Notes and the Issue Date (such period through and including such 40th day, the "Restricted Period"), interests in the Regulation S Global Note may only be transferred to non-U.S. persons pursuant to Regulation S, unless exchanged for interests in a Global Note in accordance with the transfer and certification requirements described herein.

Investors may hold their interests in the Regulation S Global Note through organizations other than Euroclear or Clearstream that are participants in DTC's system or directly through Euroclear or Clearstream, if they are participants in such systems, or indirectly through organizations which are participants in such systems. If such interests are held through Euroclear or Clearstream, Euroclear and Clearstream will hold such interests in the applicable Regulation S Global Note on behalf of their participants through customers' securities accounts in their respective names on the books of their respective depositaries. Such depositaries, in turn, will hold such interests in the applicable Regulation S Global Note in customers' securities accounts in the depositaries' names on the books of DTC.

The Regulation S Global Note may be represented by more than one certificate, if so required by DTC's rules regarding the maximum principal amount to be represented by a single certificate. The aggregate principal amount of the Regulation S Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee, as custodian for DTC or its nominee, as hereinafter provided.

The Rule 144A Global Notes and the Regulation S Global Notes and any other global notes evidencing Notes issued under this Indenture are sometimes collectively herein referred to as the "Global Notes."

The principal of, premium, if any, and interest due on the Notes shall be payable at the office or agency of the Paying Agent designated by the Issuer maintained for such purpose (which shall initially be the office of the Trustee maintained for such purpose), or at such other office or agency of the Issuer as may be maintained for such purpose pursuant to Section 2.3; *provided, however*, that, at the option of the Paying Agent, each installment of interest may be paid by (i) check mailed to addresses of the Persons entitled thereto as such addresses shall appear on the Notes Register or (ii) wire transfer to an account located in the United States maintained by the payee, subject to the last sentence of this paragraph. Payments in respect of Notes represented by a Global Note (including principal, premium, if any, and interest) will be made by wire transfer of immediately available funds to the accounts specified by the Holders thereof or otherwise in accordance with the applicable procedures of DTC. Payments in respect of Notes represented by Definitive Notes (including principal, premium, if any, and interest) held by a Holder of at least \$1,000,000 aggregate principal amount of Notes represented by Definitive Notes will be made by wire transfer to a Dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than fifteen (15) days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage, in addition to those set forth on Exhibit A and in Sections 2.1(c) and (d). The Issuer shall approve any notation, endorsement or legend on the Notes. Each Note shall be dated the date of its authentication. The terms of the Notes set forth in Exhibit A are part of the terms of this Indenture and, to the extent applicable, the Issuer, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to be bound by such terms.

(b) Denominations. The Notes shall be in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

(c) Restrictive Legends. Unless and until (i) an Initial Note or an Additional Restricted Note is sold under an effective registration statement or (ii) the Issuer and the Trustee receive an Opinion of Counsel reasonably satisfactory to the Issuer to the effect that neither such legend nor the related restrictions on transfer are required in order to maintain compliance with the provisions of the Securities Act, the Rule 144A Global Note and the Regulation S Global Note shall bear the following legend on the face thereof:

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE THAT IS ONE YEAR (IN THE CASE OF THE 144A NOTES) OR 40 DAYS (IN THE CASE OF THE REGULATION S NOTES) AFTER THE LATER OF THE ORIGINAL ISSUE DATE OF THE NOTES AND THE LAST DATE ON WHICH THE ISSUER OR ANY AFFILIATE OF THE ISSUER WAS THE OWNER OF THIS NOTE (OR ANY PREDECESSOR OF THIS NOTE) ONLY (A) TO THE ISSUER, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A UNDER THE SECURITIES ACT OR (D) PURSUANT TO OFFERS AND SALES THAT OCCUR OUTSIDE THE UNITED STATES WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT, SUBJECT TO THE ISSUER'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (D) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM.

(d) Global Note Legend. Each Global Note, whether or not an Initial Note, shall bear the following legend on the face thereof:

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS

REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO DTC, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

(e) Book-Entry Provisions. (i) This Section 2.1(e) shall apply only to Global Notes deposited with the Trustee, as custodian for DTC.

(i) Each Global Note initially shall (%3) be registered in the name of DTC or the nominee of DTC, (%3) be delivered to the Notes Custodian for DTC and (%3) bear legends as set forth in Section 2.1(d). Transfers of a Global Note (but not a beneficial interest therein) will be limited to transfers thereof in whole, but not in part, to DTC, its successors or its respective nominees, except as set forth in Sections 2.1(e)(iii) and 2.1(f). If a beneficial interest in a Global Note is transferred or exchanged for a beneficial interest in another Global Note, the Notes Custodian will (x) record a decrease in the principal amount of the Global Note being transferred or exchanged equal to the principal amount of such transfer or exchange and (y) record a like increase in the principal amount of the other Global Note. Any beneficial interest in one Global Note that is transferred to a Person who takes delivery in the form of an interest in another Global Note, or exchanged for an interest in another Global Note, will, upon transfer or exchange, cease to be an interest in such Global Note and become an interest in the other Global Note and, accordingly, will thereafter be subject to all transfer and exchange restrictions, if any, and other procedures applicable to beneficial interests in such other Global Note for as long as it remains such an interest.

(ii) Members of, or participants in, DTC ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by DTC or by the Notes Custodian as the custodian of DTC or under such Global Note, and DTC may be treated by the Issuer, the Trustee and any agent of the Issuer or the Trustee as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Issuer, the Trustee or any agent of the Issuer or the Trustee from giving effect to any written certification, proxy or other authorization furnished by DTC or impair, as between DTC and its Agent Members, the operation of customary practices of DTC governing the exercise of the rights of a holder of a beneficial interest in any Global Note.

(iii) In connection with any transfer of a portion of the beneficial interest in a Global Note pursuant to Section 2.1(f) to beneficial owners who are required to hold Definitive Notes, the Notes Custodian shall reflect on its books and records the date and a decrease in the principal amount of such Global Note in an amount equal to the principal amount of the beneficial interest in the Global Note to be transferred, and the Issuer shall execute, and the Trustee shall authenticate and make available for delivery, one or more Definitive Notes of like tenor and amount.

(iv) In connection with the transfer of an entire Global Note to beneficial owners pursuant to Section 2.1(f), such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Issuer shall execute, and the Trustee shall authenticate and make available for delivery, to each beneficial owner identified by DTC in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Definitive Notes of authorized denominations.

(v) The registered Holder of a Global Note may grant proxies and otherwise authorize any person, including Agent Members and persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(vi) Any Holder of a Global Note shall, by acceptance of such Global Note, agree that transfers of beneficial interests in such Global Note may be effected only through a book-entry system maintained by (%3) the Holder of such Global Note (or its agent) or (%3) any holder of a beneficial interest in such Global Note, and that ownership of a beneficial interest in such Global Note shall be required to be reflected in a book entry.

(f) Definitive Notes. Except as provided below in this paragraph (f), owners of beneficial interests in Global Notes will not be entitled to receive Definitive Notes. Definitive Notes shall be transferred to all beneficial owners in exchange for their beneficial interests in a Global Note if (%3) DTC notifies the Issuer that it is unwilling or unable to continue to act as Depository for the Global Note or that DTC ceases to be a clearing agency registered under the Exchange Act, and, in either case, the Issuer fails to appoint a successor depository within 90 days after the date of such notice, or (%3) there shall have occurred and be continuing an Event of Default with respect to the Notes under this Indenture and DTC shall have requested the issuance of Definitive Notes. In the event of the occurrence of any of the events specified in the second preceding sentence or in clause (i) or (ii) of the preceding sentence, the Issuer shall promptly make available to the Trustee a reasonable supply of Definitive Notes. In

addition, any Note transferred to an affiliate (as defined in Rule 405 under the Securities Act) of the Issuer or evidencing a Note that has been acquired by an affiliate in a transaction or series of transactions not involving any public offering must, until one year after the last date on which either the Issuer or any Affiliate of the Issuer was an owner of the Note, be in the form of a Definitive Note and bear the legend regarding transfer restrictions in Section 2.1(d). If required to do so pursuant to any applicable law or regulation, beneficial owners may also obtain Definitive Notes in exchange for their beneficial interests in a Global Note upon written request in accordance with DTC's and the Registrar's procedures.

(i) Any Definitive Note delivered in exchange for an interest in a Global Note pursuant to this Section 2.1(f) shall, except as otherwise provided by Section 2.6(d), bear the applicable legend regarding transfer restrictions applicable to the Global Note set forth in Section 2.1(c).

(ii) If a Definitive Note is transferred or exchanged for a beneficial interest in a Global Note, the Trustee will (%3) cancel such Definitive Note, (%3) record an increase in the principal amount of such Global Note equal to the principal amount of such transfer or exchange and (%3) in the event that such transfer or exchange involves less than the entire principal amount of the canceled Definitive Note, the Issuer shall execute, and the Trustee shall authenticate and make available for delivery, to the transferring Holder a new Definitive Note representing the principal amount not so transferred.

(iii) If a Definitive Note is transferred or exchanged for another Definitive Note, (%3) the Trustee will cancel the Definitive Note being transferred or exchanged, (%3) the Issuer shall execute, and the Trustee shall authenticate and make available for delivery, one or more new Definitive Notes in authorized denominations having an aggregate principal amount equal to the principal amount of such transfer or exchange to the transferee (in the case of a transfer) or the Holder of the canceled Definitive Note (in the case of an exchange), registered in the name of such transferee or Holder, as applicable, and (%3) if such transfer or exchange involves less than the entire principal amount of the canceled Definitive Note, the Issuer shall execute, and the Trustee shall authenticate and make available for delivery to the Holder thereof, one or more Definitive Notes in authorized denominations having an aggregate principal amount equal to the untransferred or unexchanged portion of the canceled Definitive Notes, registered in the name of the Holder thereof.

SECTION 2.2. Execution and Authentication. One Officer of the Issuer shall sign the Notes for the Issuer by manual, facsimile or pdf signature. If the Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

A Note shall not be valid until an authorized officer of the Trustee manually authenticates the Note. The signature of the Trustee on a Note shall be conclusive evidence that such Note has been duly and validly authenticated and issued under this Indenture. A Note shall be dated the date of its authentication.

At any time and from time to time after the execution and delivery of this Indenture, the Trustee shall authenticate and make available for delivery: (%3) Initial Notes for original issue on the Issue Date in an aggregate principal amount of \$600,000,000, (%3) subject to Sections 3.6 and 3.13, Additional Notes for original issue in an unlimited principal amount and (%3) under the circumstances set forth in Section 2.6(e), Initial Notes in the form of an Unrestricted Global Note, in each case upon a written order of the Issuer signed by one Officer of the Issuer (the "Issuer Order"). The Issuer Order shall specify whether the Notes will be in the form of Definitive Notes or Global Notes, the amount of the Notes to be authenticated, the date on which the original issue of Notes is to be authenticated, the Holder of the Notes and whether the Notes are to be Initial Notes or Additional Notes.

The Trustee may appoint an agent (the "Authenticating Agent") reasonably acceptable to the Issuer to authenticate the Notes. Any such appointment shall be evidenced by an instrument signed by a Trust Officer, a copy of which shall be furnished to the Issuer.

Unless limited by the terms of such appointment, any such Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by the Authenticating Agent. An Authenticating Agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

In case the Issuer, pursuant to Article IV, shall be consolidated or merged with or into any other corporation or shall convey or transfer all or substantially all of its properties or assets to any Person, and the successor Person resulting from such consolidation, or surviving such merger, or into which the Issuer or any Guarantor shall have been merged, or the Person which shall have received a conveyance or transfer as aforesaid, shall have executed an indenture supplemental hereto with the Trustee pursuant to Article IV, any of the Notes authenticated or delivered prior to such consolidation, merger, conveyance or transfer may (but shall not be required), from time to time, at the request of the successor Person, be exchanged for other Notes executed in the name of the successor Person with such changes in phraseology and form as may be appropriate to reflect such successor Person, but otherwise in substance of like tenor as the Notes surrendered for such exchange and of like principal amount; and the Trustee, upon the Issuer Order of the successor Person, shall authenticate and make available for delivery Notes as specified in such order for the purpose of such exchange. If Notes shall at any time be authenticated and delivered in any new name of a

successor Person pursuant to this Section 2.2 in exchange or substitution for or upon registration of transfer of any Notes, such successor Person, at the option of the Holders but without expense to them, shall provide for the exchange of all Notes at the time outstanding for Notes authenticated and delivered in such new name.

SECTION 2.3. Registrar and Paying Agent. The Issuer shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange (the “Registrar”) and an office or agency where Notes may be presented for payment. The Registrar shall keep a register of the Notes and of their transfer and exchange (the “Notes Register”). The Issuer may have one or more co-registrars and one or more additional paying agents. The term “Paying Agent” includes any additional paying agent and the term “Registrar” includes any co-registrar.

The Issuer shall enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Issuer shall notify the Trustee in writing of the name and address of each such agent. If the Issuer fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.7. The Issuer or any Guarantor may act as Paying Agent, Registrar or transfer agent.

The Issuer initially appoints DTC to act as Depository with respect to the Global Notes. The Issuer initially appoints the Trustee to act as the Registrar and Paying Agent for the Notes and the Issuer may remove any Registrar or Paying Agent without prior notice to the Holders, but upon written notice to such Registrar or Paying Agent and to the Trustee; *provided, however*, that no such removal shall become effective until (i) acceptance of any appointment by a successor as evidenced by an appropriate agreement entered into by the Issuer and such successor Registrar or Paying Agent, as the case may be, and delivered to the Trustee and the passage of any waiting or notice periods required by DTC procedures or (ii) written notification to the Trustee that the Trustee shall serve as Registrar or Paying Agent until the appointment of a successor in accordance with clause (a) above. The Registrar or Paying Agent may resign at any time upon written notice to the Issuer and the Trustee.

SECTION 2.4. Paying Agent to Hold Money in Trust. Prior to 10:00 a.m. (Eastern Time), on each date of the principal of, premium, if any, or interest on any Note is due and payable, the Issuer shall deposit with the Paying Agent a sum sufficient in immediately available funds to pay such principal, premium, if any, or interest when due. The Issuer shall require the Paying Agent (other than the Trustee) to agree in writing that such Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by such Paying Agent for the payment of principal of, premium, if any, or interest on the Notes (whether such assets have been distributed to it by the Issuer or other obligors on the Notes), shall notify the Trustee in writing of any default by the Issuer or any Guarantor in making any such payment and shall during the continuance of any default by the Issuer (or any other obligor upon the Notes) or any Guarantor in the making of any payment in respect of the Notes, upon the written request of the Trustee, forthwith deliver to the Trustee all sums held in trust by such Paying Agent for payment in respect of the Notes together with a full accounting thereof. If the Issuer or a Subsidiary of the Issuer acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Issuer at any time may require a Paying Agent (other than the Trustee) to pay all money held by it to the Trustee and to account for any funds or assets disbursed by such Paying Agent. Upon complying with this Section 2.4, the Paying Agent (if other than the Issuer or a Subsidiary of the Issuer) shall have no further liability for the money delivered to the Trustee. Upon any bankruptcy, insolvency, reorganization or similar proceeding with respect to the Issuer, the Trustee shall serve as Paying Agent for the Notes.

SECTION 2.5. Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Issuer, on its own behalf and on behalf of each of the Guarantors, shall furnish or cause the Registrar to furnish to the Trustee, in writing at least five Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders and the Issuer.

SECTION 2.6. Transfer and Exchange.

(a) A Holder may transfer a Note (or a beneficial interest therein) to another Person or exchange a Note (or a beneficial interest therein) for another Note or Notes of any authorized denomination by presenting to the Trustee a written request therefor stating the name of the proposed transferee or requesting such an exchange, accompanied by any certification, opinion or other document required by this Section 2.6. The Trustee will promptly register any transfer or exchange that meets the requirements of this Section 2.6 by noting the same in the Notes Register maintained by the Trustee for the purpose, and no transfer or exchange will be effective until it is registered in such Notes Register. The transfer or exchange of any Note (or a beneficial interest therein) may only be made in accordance with this Section 2.6 and Sections 2.1(e) and 2.1(f), as applicable, and, in the case of a Global Note (or a beneficial interest therein), the applicable rules and procedures of DTC, Euroclear and Clearstream. The Trustee shall refuse to register any requested transfer or exchange that does not comply with this Section 2.6(a).

(b) Transfers of Rule 144A Notes. The following provisions shall apply with respect to any proposed registration of transfer of a Rule 144A Note prior to the date that is one year after the later of the date of its original issue and the last date on which the Issuer or any Affiliate of the Issuer was the owner of such Notes (or any predecessor thereto):

(i) a registration of transfer of a Rule 144A Note or a beneficial interest therein to a QIB shall be made upon the representation of the transferee in the form as set forth on the reverse of the Note that it is purchasing for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a “qualified institutional buyer” within the meaning of Rule 144A, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon its foregoing representations in order to claim the exemption from registration provided by Rule 144A; *provided* that no such written representation or other written certification shall be required in connection with the transfer of a beneficial interest in the Rule 144A Global Note to a transferee in the form of a beneficial interest in that Rule 144A Global Note in accordance with this Indenture and the applicable procedures of DTC; and

(ii) a registration of transfer of a Rule 144A Note or a beneficial interest therein to a Non-U.S. Person shall be made upon receipt by the Issuer and the Registrar or its agent of a certificate substantially in the form set forth in Exhibit C from the proposed transferee and the delivery of an Opinion of Counsel, certification and/or other information satisfactory to the Issuer.

(c) Transfers of Regulation S Notes. The following provisions shall apply with respect to any proposed transfer of a Regulation S Note prior to the expiration of the Restricted Period:

(i) a transfer of a Regulation S Note or a beneficial interest therein to a QIB shall be made upon the representation of the transferee, in the form of assignment on the reverse of the certificate, that it is purchasing the Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a “qualified institutional buyer” within the meaning of Rule 144A, is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon its foregoing representations in order to claim the exemption from registration provided by Rule 144A; and

(ii) a transfer of a Regulation S Note or a beneficial interest therein to a Non-U.S. Person shall be made upon receipt by the Registrar or its agent of a certificate substantially in the form set forth in Exhibit C hereof from the proposed transferee and receipt by the Issuer and Registrar or its agent of an Opinion of Counsel, certification and/or other information satisfactory to the Issuer.

After the expiration of the Restricted Period, interests in the Regulation S Note may be transferred in accordance with applicable law without requiring the certification set forth in Exhibit C or any additional certification.

(d) Restricted Notes Legend. Upon the transfer, exchange or replacement of Notes not bearing a Restricted Notes Legend, the Registrar shall deliver Notes that do not bear a Restricted Notes Legend. Upon the transfer, exchange or replacement of Notes bearing a Restricted Notes Legend, the Registrar shall deliver only Notes that bear a Restricted Notes Legend unless (i) an Initial Note is being transferred pursuant to an effective registration statement, (ii) Initial Notes are being exchanged for Notes that do not bear the Restricted Notes Legend in accordance with Section 2.6(e) or (iii) there is delivered to the Registrar an Opinion of Counsel stating that neither such legend nor the related restrictions on transfer are required in order to maintain compliance with the provisions of the Securities Act. Any Additional Notes sold in a registered offering shall not be required to bear the Restricted Notes Legend.

(e) Automatic Exchange from Global Note Bearing Restricted Notes Legend to Global Note Not Bearing Restricted Notes Legend. Upon the Issuer’s satisfaction that the Restricted Notes Legend shall no longer be required in order to maintain compliance with the Securities Act, beneficial interests in a Global Note bearing the Restricted Notes Legend (a “Restricted Global Note”) may be automatically exchanged into beneficial interests in a Global Note not bearing the Restricted Notes Legend (an “Unrestricted Global Note”) without any action required by or on behalf of the Holder (the “Automatic Exchange”) at any time on or after the date that is the 366th calendar day after (i) with respect to the Notes issued on the Issue Date, the Issue Date or (ii) with respect to Additional Restricted Notes, if any, the issue date of such Additional Restricted Notes, or, in each case, if such day is not a Business Day, on the next succeeding Business Day (the “Automatic Exchange Date”). Upon the Issuer’s satisfaction that the Restricted Notes Legend shall no longer be required in order to maintain compliance with the Securities Act, the Issuer, upon request by any Holder, shall (i) provide written notice to DTC and the Trustee at least fifteen (15) calendar days prior to the Automatic Exchange Date, instructing DTC to exchange all of the outstanding beneficial interests in a particular Restricted Global Note to the Unrestricted Global Note, which the Issuer shall have previously otherwise made eligible for exchange with DTC, (ii) provide prior written notice to each Holder at such Holder’s address appearing in the register of Holders at least fifteen (15) calendar days prior to the Automatic Exchange Date, which notice must include (w) the Automatic Exchange Date, (x) the section of this Indenture pursuant to which the Automatic Exchange shall occur, (y) the “CUSIP” number of the Restricted Global Note from which such Holder’s beneficial interests will be transferred and (z) the “CUSIP” number of the Unrestricted Global Note into which such Holder’s beneficial interests will be transferred, and (iii) on

or prior to the Automatic Exchange Date, deliver to the Trustee for authentication one or more Unrestricted Global Notes, duly executed by the Issuer, in an aggregate principal amount equal to the aggregate principal amount of Restricted Global Notes to be exchanged into such Unrestricted Global Notes.

Notwithstanding anything to the contrary in this Section 2.6(e), during the fifteen (15) calendar day period prior to the Automatic Exchange Date, no transfers or exchanges other than pursuant to this Section 2.6(e) shall be permitted without the prior written consent of the Issuer. As a condition to any Automatic Exchange, the Issuer shall provide, and the Trustee shall be entitled to conclusively rely upon, an Officer's Certificate and Opinion of Counsel to the Issuer to the effect that the Automatic Exchange shall be effected in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend shall no longer be required in order to maintain compliance with the Securities Act and that the aggregate principal amount of the particular Restricted Global Note is to be transferred to the particular Unrestricted Global Note by adjustment made on the records of the Trustee, as custodian for the Depository, to reflect the Automatic Exchange. Upon such exchange of beneficial interests pursuant to this Section 2.6(e), the aggregate principal amount of the Global Notes shall be increased or decreased by adjustments made on the records of the Trustee, as custodian for the Depository, to reflect the relevant increase or decrease in the principal amount of such Global Note resulting from the applicable exchange. The Restricted Global Note from which beneficial interests are transferred pursuant to an Automatic Exchange shall be canceled following the Automatic Exchange.

(f) **Retention of Written Communications.** The Registrar shall retain copies of all letters, notices and other written communications received pursuant to Section 2.1 or this Section 2.6. The Issuer shall have the right to inspect and make copies of all such letters, notices or other written communications at any reasonable time upon the giving of reasonable prior written notice to the Registrar.

(g) **Obligations with Respect to Transfers and Exchanges of Notes.** To permit registrations of transfers and exchanges, the Issuer shall, subject to the other terms and conditions of this Article II, execute and the Trustee shall authenticate Definitive Notes and Global Notes at the Issuer's and Registrar's written request.

No service charge shall be made to a Holder for any registration of transfer or exchange, but the Issuer may require the Holder to pay a sum sufficient to cover any transfer tax assessments or similar governmental charge payable in connection therewith (other than any such transfer taxes, assessments or similar governmental charges payable upon exchange or transfer pursuant to Section 2.2, 2.6, 2.7, 2.9, 5.6 or 9.5).

The Issuer (and the Registrar) shall not be required to register the transfer of or exchange of any Note (%4) for a period beginning (%5) fifteen (15) calendar days before the mailing of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing or (%5) fifteen (15) calendar days before an interest payment date and ending on such interest payment date or (%3) called for redemption, except the unredeemed portion of any Note being redeemed in part.

Prior to the due presentation for registration of transfer of any Note, the Issuer, the Trustee, the Paying Agent or the Registrar may deem and treat the person in whose name a Note is registered as the owner of such Note for the purpose of receiving payment of principal of, premium, if any, and (subject to paragraph 2 of the form of Note attached hereto as Exhibit A) interest on such Note and for all other purposes whatsoever, including without limitation the transfer or exchange of such Note, whether or not such Note is overdue, and none of the Issuer, the Trustee, the Paying Agent or the Registrar shall be affected by notice to the contrary.

Any Definitive Note delivered in exchange for an interest in a Global Note pursuant to Section 2.1(f) shall, except as otherwise provided by Section 2.6(d), bear the applicable legend regarding transfer restrictions applicable to the Definitive Note set forth in Section 2.1(c).

All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

(h) **No Obligation of the Trustee.** The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a participant in, DTC or other Person with respect to the accuracy of the records of DTC or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than DTC) of any notice (including any notice of redemption) or the payment of any amount or delivery of any Notes (or other security or property) under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders in respect of the Notes shall be given or made only to or upon the order of the registered Holders (which shall be DTC or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through DTC subject to the applicable rules and procedures of DTC. The Trustee may rely and shall be fully protected in relying upon information furnished by DTC with respect to its members, participants and any beneficial owners.

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among DTC participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof. Neither the Trustee nor any of its agents shall have any responsibility for any actions taken or not taken by DTC.

SECTION 2.7. Mutilated, Destroyed, Lost or Stolen Notes.

If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall issue and the Trustee shall authenticate a replacement Note if the requirements of Section 8-405 of the UCC are met, such that the Holder (a) satisfies the Issuer and the Trustee that such Note has been lost, destroyed or wrongfully taken within a reasonable time after such Holder has notice of such loss, destruction or wrongful taking and the Registrar has not registered a transfer prior to receiving such notification, (b) makes such request to the Issuer and the Trustee prior to the Note being acquired by a protected purchaser as defined in Section 8-303 of the UCC (a "protected purchaser") and (c) satisfies any other reasonable requirements of the Trustee; *provided, however*, that if after the delivery of such replacement Note, a protected purchaser of the Note for which such replacement Note was issued presents for payment or registration such replaced Note, the Trustee and/or the Issuer shall be entitled to recover such replacement Note from the Person to whom it was issued and delivered or any Person taking therefrom, except a protected purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Issuer or the Trustee in connection therewith. Such Holder shall furnish an indemnity bond sufficient in the judgment of (i) the Trustee to protect the Trustee and (ii) the Issuer to protect the Issuer, the Trustee, the Paying Agent and the Registrar, from any loss which any of them may suffer if a Note is replaced, and, in the absence of notice to the Issuer, any Guarantor or the Trustee that such Note has been acquired by a protected purchaser, the Issuer shall execute, and upon receipt of an Issuer Order, the Trustee shall authenticate and make available for delivery, in exchange for any such mutilated Note or in lieu of any such destroyed, lost or stolen Note, a new Note of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Issuer in its discretion may, instead of issuing a new Note, pay such Note.

Upon the issuance of any new Note under this Section 2.7, the Issuer may require that such Holder pay a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of counsel and of the Trustee) in connection therewith.

Subject to the proviso in the initial paragraph of this Section 2.7, every new Note issued pursuant to this Section 2.7, in lieu of any mutilated, destroyed, lost or stolen Note, shall constitute an original additional contractual obligation of the Issuer, any Guarantor (if applicable) and any other obligor upon the Notes, whether or not the mutilated, destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

The provisions of this Section 2.7 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

SECTION 2.8. Outstanding Notes. Notes outstanding at any time are all Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those paid pursuant to Section 2.7 and those described in this Section 2.8 as not outstanding. A Note does not cease to be outstanding in the event the Issuer or an Affiliate of the Issuer holds the Note; *provided, however*, that (%3) for purposes of determining which Notes are outstanding for consent or voting purposes hereunder, the provisions of Section 13.5 shall apply and (%3) in determining whether the Trustee shall be protected in making a determination whether the Holders of the requisite principal amount of outstanding Notes are present at a meeting of Holders of Notes for quorum purposes or have consented to or voted in favor of any request, demand, authorization, direction, notice, consent, waiver, amendment or modification hereunder, or relying upon any such quorum, consent or vote, only Notes which a Trust Officer of the Trustee actually knows to be held by the Issuer or an Affiliate of the Issuer shall not be considered outstanding.

If a Note is replaced pursuant to Section 2.7 (other than a mutilated Note surrendered for replacement), it ceases to be outstanding unless the Trustee and the Issuer receive proof satisfactory to them that the replaced Note is held by a protected purchaser. A mutilated Note ceases to be outstanding upon surrender of such Note and replacement pursuant to Section 2.7.

If the Paying Agent segregates and holds in trust, in accordance with this Indenture, on a Redemption Date or maturity date, money sufficient to pay all principal, premium, if any, and accrued interest payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, and the Paying Agent is not prohibited from paying such

money to the Holders on that date pursuant to the terms of this Indenture, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

SECTION 2.9. Temporary Notes. In the event that Definitive Notes are to be issued under the terms of this Indenture, until such Definitive Notes are ready for delivery, the Issuer may prepare and the Trustee shall authenticate temporary Notes. Temporary Notes shall be substantially in the form, and shall carry all rights, of Definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes. Without unreasonable delay, the Issuer shall prepare and the Trustee shall authenticate Definitive Notes. After the preparation of Definitive Notes, the temporary Notes shall be exchangeable for Definitive Notes upon surrender of the temporary Notes at any office or agency maintained by the Issuer for that purpose and such exchange shall be without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Issuer shall execute, and the Trustee shall, upon receipt of an Issuer Order, authenticate and make available for delivery in exchange therefor, one or more Definitive Notes representing an equal principal amount of Notes. Until so exchanged, the Holder of temporary Notes shall in all respects be entitled to the same benefits under this Indenture as a Holder of Definitive Notes.

SECTION 2.10. Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment or cancellation and dispose of such Notes in accordance with its internal policies and customary procedures (subject to the record retention requirements of the Exchange Act and the Trustee). If the Issuer or any Guarantor acquires any of the Notes, such acquisition shall not operate as a redemption or satisfaction of the Indebtedness represented by such Notes unless and until the same are surrendered to the Trustee for cancellation pursuant to this Section 2.10. The Issuer may not issue new Notes to replace Notes it has paid or delivered to the Trustee for cancellation for any reason other than in connection with a transfer or exchange.

At such time as all beneficial interests in a Global Note have either been exchanged for Definitive Notes, transferred, redeemed, repurchased or canceled, such Global Note shall be returned by DTC to the Trustee for cancellation or retained and canceled by the Trustee. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for Definitive Notes, transferred in exchange for an interest in another Global Note, redeemed, repurchased or canceled, the principal amount of Notes represented by such Global Note shall be reduced and an adjustment shall be made on the books and records of the Trustee (if it is then the Notes Custodian for such Global Note) with respect to such Global Note, by the Trustee or the Notes Custodian, to reflect such reduction.

SECTION 2.11. Payment of Interest; Defaulted Interest. Interest on any Note which is payable, and is punctually paid or duly provided for, on any interest payment date shall be paid to the Person in whose name such Note (or one or more Predecessor Notes) is registered at the close of business on the regular record date for such payment at the office or agency of the Issuer maintained for such purpose pursuant to Section 2.3.

Any interest on any Note which is payable, but is not paid when the same becomes due and payable and such nonpayment continues for a period of 30 days shall forthwith cease to be payable to the Holder on the regular record date, and such defaulted interest and (to the extent lawful) interest on such defaulted interest at the rate borne by the Notes (such defaulted interest and interest thereon herein collectively called "Defaulted Interest") shall be paid by the Issuer, at its election in each case, as provided in clause (a) or (b) below:

(a) The Issuer may elect to make payment of any Defaulted Interest to the Persons in whose names the Notes (or their respective predecessor Notes) are registered at the close of business on a Special Record Date (as defined below) for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date of the proposed payment (the "Special Interest Payment Date"), and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Section 2.11(a). Thereupon the Issuer shall fix a record date (the "Special Record Date") for the payment of such Defaulted Interest, which date shall be not more than fifteen (15) calendar days and not less than ten (10) calendar days prior to the Special Interest Payment Date and not less than ten (10) calendar days after the receipt by the Trustee of the notice of the proposed payment. The Issuer shall promptly notify the Trustee in writing of such Special Record Date, and in the name and at the expense of the Issuer, the Trustee shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date and Special Interest Payment Date therefor to be given in the manner provided for in Section 13.1, not less than ten (10) calendar days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date and Special Interest Payment Date therefor having been so given, such Defaulted Interest shall be paid on the Special Interest Payment Date to the Persons in whose names the Notes (or their respective predecessor Notes) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the provisions in Section 2.11(b).

(b) The Issuer may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after written notice given by the Issuer to the Trustee of the proposed payment pursuant to this Section 2.11(b), such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section 2.11, each Note delivered under this Indenture upon registration of, transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

SECTION 2.12. CUSIP and ISIN Numbers. The Issuer in issuing the Notes may use “CUSIP” and “ISIN” numbers and, if so, the Trustee shall use “CUSIP” and “ISIN” numbers in notices of redemption or other notice as a convenience to Holders; *provided, however*, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption or other notice and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption or other notification shall not be affected by any defect in or omission of such CUSIP and ISIN numbers. The Issuer shall promptly notify the Trustee in writing of any change in the CUSIP and ISIN numbers.

Article III.

COVENANTS

SECTION 3.1. Payment of Notes.

The Issuer will pay or cause to be paid the principal of, premium, if any, and interest due on the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest due on the Notes will be considered paid on the date due if the Paying Agent, if other than Holdings or a Subsidiary thereof, holds as of 11:00 a.m. (Eastern Time) on the due date money deposited (or caused or directed to be deposited) by the Issuer in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due on the Notes.

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

SECTION 3.2. Maintenance of Office or Agency.

The Issuer will maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for payment, registration of transfer or for exchange and where notices and demands to or upon the Issuer in respect of the Notes and this Indenture may be served; *provided, however*, that nothing herein shall be construed to render the Trustee or any affiliate of the Trustee, Registrar or co-registrar as the agent of the Issuer for service of process. The Issuer will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer fails to maintain any such required office or agency or fails to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

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

SECTION 3.3. Stay, Extension and Usury Laws. The Issuer covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenant that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law has been enacted.

SECTION 3.4. Compliance Certificate.

The Issuer shall deliver to the Trustee, within 120 days after the end of each Fiscal Year ended after the Issue Date, an Officer's Certificate (which need not comply with Section 13.4) stating, as to the signer thereof (who must be the principal executive officer, principal financial officer or principal accounting officer of the Issuer) that:

(a) a review of the activities of the Issuer during such year and of its performance under this Indenture has been made under his or her supervision, and

(b) to the best of his or her knowledge, based on such review, the Issuer has fulfilled all its obligations under this Indenture throughout such year, or, if there has been a default in the fulfillment of any such obligation, specifying each such default known to him or her and the nature and status thereof.

SECTION 3.5. Limitation on Asset Dispositions.

(a) The Issuer shall not, and shall not permit PropCo to, make any Asset Disposition unless:

(i) the Issuer or PropCo, as the case may be, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at least equal to the fair market value (such fair market value to be determined on the date of contractually agreeing to such Asset Disposition), as determined in good faith by the Issuer, of the Equity Interests, property or assets subject to such Asset Disposition;

(ii) in any such Asset Disposition, or series of related Asset Dispositions, at least 75% of the consideration from such Asset Disposition (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise), received by the Issuer or PropCo, as the case may be, is in the form of cash, cash equivalents or other Permitted Investments; and

(iii) an amount equal to 100% of the Net Available Cash from such Asset Disposition is applied within 365 days after the receipt thereof (or, if the Issuer or PropCo enters into a binding commitment to acquire such long-term assets within 365 days of receipt of such Net Available Cash, within 540 days of receipt thereof) at the option of the Issuer:

(A) to repay, redeem, repurchase or otherwise acquire or retire: (1) the Notes; (2) any other Parity Lien Obligations; provided that in the case of clause (2), the Issuer shall equally and ratably reduce the Notes Obligations (x) through open market purchases (to the extent such purchases are at or above 100% of the principal amount of the Notes, (y) as provided under Section 5.7 or (z) by making an Asset Disposition Offer; or

(B) by PropCo to acquire Real Estate Assets that would constitute and are pledged in favor of the Parity Lien Obligations as, Collateral; or

(C) any combination of the foregoing;

provided that, pending the final application of the amount of any such Net Available Cash in accordance with clause (iii) of this Section 3.5(a), the Issuer and PropCo may temporarily reduce Indebtedness or otherwise use such Net Available Cash in any manner not prohibited by this Indenture.

For purposes of the 75% cash, cash equivalents or other Permitted Investments requirement set forth in clause (ii) above, the following shall be deemed to be “cash”: (I) any liabilities (as shown on the Issuer’s or PropCo’s most recent balance sheet or in the footnotes thereto which shall at such time have been delivered pursuant to Section 3.12 or otherwise prepared (other than any liabilities that are by their terms subordinated to the Notes Obligations)) that are assumed by the transferee with respect to the applicable disposition, (II) any notes or other obligations or other securities or assets received by the Issuer or PropCo in the applicable disposition that are converted into cash or cash equivalents or other Permitted Investments within 180 days of the receipt thereof (to the extent of the cash or cash equivalents or other Permitted Investments received) and (III) any Designated Non-Cash Consideration received by the Issuer or PropCo in the applicable disposition having an aggregate fair market value (as determined in good faith by the Issuer), taken together with all other Designated Non-Cash Consideration received pursuant to this clause (III) that is at the time outstanding, not to exceed, at the time of receipt of such consideration, 1.0% of Net Tangible Assets of the Issuer and its Subsidiaries (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).

(b) The amount of any Net Available Cash that is not applied or invested or committed to be applied or invested as provided in Section 3.5(a) will be deemed to constitute “Excess Proceeds” under this Indenture. Within 10 Business Days after the date that the aggregate amount of Excess Proceeds exceeds \$20.0 million, the Issuer will be required to make an offer (“Asset Disposition Offer”) to all Holders of Notes issued under this Indenture to purchase the maximum principal amount of Notes that may be purchased out of the Excess Proceeds, at an offer price equal to 100% of the principal amount of the Notes *plus* accrued and unpaid interest, if any, to, but not including, the date of purchase, in accordance with the procedures set forth in Sections 3.5(c) and (d) and in minimum denominations of \$2,000 and in integral multiples of \$1,000 in excess thereof. The Issuer shall deliver notice of such Asset Disposition Offer electronically or by first-class mail, with a copy to the Trustee, to each Holder of Notes at the address of such Holder appearing in the security register or otherwise in accordance with the applicable procedures of DTC, offering to repurchase the Notes for the specified purchase price on the date specified in the notice, which date will be

no earlier than 30 days and no later than 60 days from the date such notice is delivered, pursuant to the procedures required by this Indenture and described in such notice. The Issuer may, in its sole discretion, make an Asset Disposition Offer pursuant to this Section 3.5 prior to the time that the aggregate amount of Excess Proceeds exceeds \$20.0 million.

(c) To the extent that the aggregate amount of Notes so validly tendered and not properly withdrawn pursuant to an Asset Disposition Offer is less than the Excess Proceeds, the Issuer may use any remaining Excess Proceeds for any purpose not prohibited by this Indenture. If the aggregate principal amount of the Notes surrendered in any Asset Disposition Offer by Holders exceeds the amount of Excess Proceeds, the Excess Proceeds shall be allocated among the Notes to be purchased on a pro rata basis, by lot to the extent practicable or by such other method in accordance with the applicable procedures of DTC, on the basis of the aggregate principal amount of tendered Notes; *provided* that no Notes will be selected and purchased in an unauthorized denomination. Upon completion of any Asset Disposition Offer, the amount of Excess Proceeds shall be reset at zero.

(d) The Issuer will comply, to the extent applicable, with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws, rules and regulations thereunder to the extent such laws or regulations are applicable in connection with the repurchase of Notes pursuant to this Section 3.5. To the extent that the provisions of any securities laws, rules or regulations conflict with the provisions of this Indenture, the Issuer will comply with the applicable securities laws, rules and regulations and shall not be deemed to have breached its obligations under this Indenture by virtue thereof.

SECTION 3.6. Limitation on Liens.

(a) The Issuer and the Guarantors shall not create, incur, assume or permit to exist any Lien securing Indebtedness on or with respect to the Collateral or any Designated Real Estate Assets, except for Permitted Liens.

(b) For purposes of determining compliance with this Section 3.6, (%3) a Lien securing Indebtedness need not be permitted solely by reference to the above paragraph or to one category (or portion thereof) of Permitted Liens described in the definition of "Permitted Liens," but may be permitted in part under any combination thereof and (%3) in the event that a Lien securing Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of Permitted Liens described in the definition of "Permitted Liens" or pursuant to the above paragraph, the Issuer may, in its sole discretion, classify or divide such Lien securing such Indebtedness (or any portion thereof) in any manner that complies with this Section 3.6.

SECTION 3.7. Subsidiaries. If any Subsidiary of the Issuer guarantees or becomes a borrower in respect of the obligations under the Revolving Credit Facility, any facility evidencing Parity Lien Obligations or any other facility evidencing indebtedness in an aggregate principal amount in excess of \$100,000,000, the Issuer shall, within twenty Business Days after such Domestic Subsidiary guarantees or becomes a borrower in respect of the obligations under the Revolving Credit Facility, any facility evidencing Parity Lien Obligations or any other facility evidencing indebtedness in an aggregate principal amount in excess of \$100,000,000, notify the Trustee thereof and promptly cause such Domestic Subsidiary to execute and deliver a supplemental indenture to this Indenture providing for a Note Guarantee by such Domestic Subsidiary.

SECTION 3.8. Limitation on Restricted Payments. The Issuer shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:

(a) declare or pay any dividend or make any payment or distribution on account of the Issuer's or any of its Subsidiaries' Equity Interests, including any payment made in connection with any merger, amalgamation or consolidation involving the Issuer (other than (A) dividends or distributions by the Issuer payable solely in Equity Interests (other than Disqualified Stock) of the Issuer; (B) dividends or distributions by a Subsidiary (other than direct or indirect dividends or distributions of Collateral by PropCo) so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Subsidiary other than a Wholly Owned Subsidiary, the Issuer or Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with Equity Interests in such class or series of securities); or

(b) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Issuer or any direct or indirect parent of the Issuer, including in connection with any merger, amalgamation or consolidation;

(all such payments and other actions set forth in clauses (a) through (b) above being collectively referred to as "Restricted Payments"), unless, at the time of such Restricted Payment:

(i) no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof; or

(ii) immediately after giving effect to such transaction on a Pro Forma Basis, the Guarantors could Incur \$1.00 of additional Indebtedness as Guaranteed Ratio Debt; or

(iii) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Issuer and its Subsidiaries after the Issue Date (including Restricted Payments permitted by clause (1) of the next succeeding paragraph, but excluding all other Restricted Payments permitted by the next succeeding paragraph), is less than the sum of, without duplication,

(A) 50% of the Consolidated Net Income of the Issuer for the period (taken as one accounting period) beginning on May 3, 2020 to the end of the Issuer's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment, or, in the case that such Consolidated Net Income for such period is a deficit, minus 100% of such deficit, plus

(B) 100% of the aggregate net proceeds, including cash and the Fair Market Value of assets (other than cash), received by the Issuer after the Issue Date from the issue or sale of Equity Interests of the Issuer (other than Excluded Equity), including such Equity Interests issued upon exercise of warrants or options, plus

(C) 100% of the aggregate amount of contributions to the capital of the Issuer received in cash and the Fair Market Value of assets (other than cash) after the Issue Date (other than Excluded Equity), plus

(D) the principal amount of any Indebtedness that, in each case, has been converted into or exchanged for Equity Interests in the Issuer (other than Excluded Equity).

(c) The foregoing provisions will not prohibit:

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

(ii) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("Retired Capital Stock") of the Issuer or any direct or indirect parent of the Issuer, in exchange for, or out of the proceeds of the issuance or sale of, Equity Interests of the Issuer or any direct or indirect parent of the Issuer or contributions to the equity capital of the Issuer (other than Excluded Equity) (collectively, including any such contributions, "Refunding Capital Stock");

(A) the declaration and payment of accrued dividends on the Retired Capital Stock out of the proceeds of the issuance or sale (other than to a Subsidiary of the Issuer or to an employee stock ownership plan or any trust established by the Issuer or any of its Subsidiaries) of Refunding Capital Stock; and

(B) if immediately prior to the retirement of the Retired Capital Stock, the declaration and payment of dividends thereon was permitted pursuant to this covenant and has not been made as of such time (the "Unpaid Amount"), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of the Issuer or any direct or indirect parent of the Issuer) in an aggregate amount no greater than the Unpaid Amount (with the payment of such Unpaid Amount being treated as a payment under the applicable provision);

(iii) the purchase, retirement, redemption or other acquisition (or Restricted Payments to the Issuer or any direct or indirect parent of the Issuer to finance any such purchase, retirement, redemption or other acquisition) for value of Equity Interests (including related stock appreciation rights or similar securities) of the Issuer or any direct or indirect parent of the Issuer held directly or indirectly by any future, present or former employee, officer, director, manager, consultant or independent contractor of the Issuer or any direct or indirect parent of the Issuer or any Subsidiary of the Issuer or their estates, heirs, family members, spouses or former spouses, domestic partners or former domestic partners, or permitted transferees (including for all purposes of this clause (4), Equity Interests held by any entity whose Equity Interests are held by any such future, present or former employee, officer, director, manager, consultant or independent contractor or their estates, heirs, family members, spouses or former spouses, domestic partners or former domestic partners, or permitted transferees) pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or other agreement or arrangement or any stock subscription or shareholder or similar agreement; *provided, however*, that the aggregate amounts paid under this clause (3) shall not exceed (x) \$25.0 million in any fiscal year;

(iv) the declaration and payment of dividends or distributions to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) and the declaration and payment of dividends to the Issuer or any direct or indirect parent of the Issuer, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of the Issuer or any direct or indirect parent of the Issuer issued after the Issue Date; *provided, however*, that (A) for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date of issuance of such Designated Preferred

Stock, a Guarantor would be able to incur \$1 of Guaranteed Ratio Debt and (B) the aggregate amount of dividends declared and paid pursuant to this clause (6) does not exceed the net cash proceeds actually received by the Issuer from the sale (or the contribution of the net cash proceeds from the sale) of Designated Preferred Stock;

(v) Restricted Payments that are made with Excluded Contributions;

(vi) other Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (6) not to exceed \$250.0 million per fiscal year;

(vii) payments or distributions to satisfy dissenters' rights, pursuant to or in connection with a consolidation, merger, amalgamation or transfer of assets that complies with the provisions of this Indenture;

(viii) the payment of cash in lieu of the issuance of fractional shares of Equity Interests in connection with any merger, consolidation, amalgamation or other business combination, or in connection with any dividend, distribution or split of or upon exercise, conversion or exchange of Equity Interests, warrants, options or other securities exercisable or convertible into, Equity Interests of the Issuer or any direct or indirect parent of the Issuer; and

(ix) other Restricted Payments in an aggregate amount taken together with all other Restricted Payments made pursuant to this clause (9) not to exceed 6% of market capitalization.

provided, however, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (iii), (vi) and (ix), no Event of Default shall have occurred and be continuing or would occur as a consequence thereof.

For purposes of this Section 3.8, if any Restricted Payment (or a portion thereof) would be permitted pursuant to one or more provisions described above, the Issuer may divide and classify such Restricted Payment (or a portion thereof) in any manner that complies with this covenant and may later divide and reclassify any such Investment or Restricted Payment so long as the Investment or Restricted Payment (as so divided and/or reclassified) would be permitted to be made in reliance on the applicable exception as of the date of such reclassification.

Notwithstanding anything to the contrary in this Section 3.8, neither the Issuer nor any Subsidiaries may make any Restricted Payment constituting any Collateral or Designated Real Estate Assets, except in compliance with Section 3.5.

SECTION 3.9. Limitation on PropCo. Notwithstanding anything to the contrary in this Section 3.9, PropCo shall not have any Subsidiaries and may not make any Investments in any Person. PropCo shall not hold any assets other than the Collateral or Designated Real Estate Assets or have any operations other than (a) holding the Collateral (including any Collateral or Designated Real Estate Assets contributed to or acquired by PropCo after the Issue Date) and leasing or licensing such Collateral or Designated Real Estate Assets to the Issuer or its other subsidiaries or otherwise operating such Collateral or Designated Real Estate Assets in the ordinary course of business in accordance with the provisions of this Indenture and distributing the cash proceeds of such leasing or licensing to the Issuer, (b) performing its obligations with respect to the Indebtedness and Liens permitted to be incurred under this Indenture, (c) maintaining its legal existence, (d) issuing equity interests to its parent company, (e) participating in tax, accounting and other administrative matters, (f) providing indemnification to officers and directors (g) incurring Indebtedness or Liens to the extent permitted hereunder, (h) consummating any Asset Dispositions and apply the proceeds thereof, in each case in accordance with Section 3.5 and (i) activities incidental to the foregoing businesses, activities or operations.

SECTION 3.10. Suspension of Certain Covenants.

(a) If on any date following the second anniversary of the Issue Date the Notes have an Investment Grade Rating from at least two of the Rating Agencies and no Default or Event of Default has occurred and is continuing under this Indenture, then beginning on that day and subject to this Section 3.10, Sections 3.8 and 3.13 in this Indenture will be suspended (collectively, the "Suspended Covenants"). The period during which such covenants shall be suspended pursuant to this Section 3.10 is called the "Suspension Period." The Issuer shall notify the Trustee of the continuance and termination of any Suspension Period.

(b) In the event that the Issuer and its Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of Section 3.10(a) and, subsequently, one of the Rating Agencies withdraws its ratings or downgrades the rating assigned to the Notes so that the Notes no longer have Investment Grade Ratings from two Rating Agencies or a Default or Event of Default occurs and is continuing, then the Issuer and its Subsidiaries will, from and after such date (the "Reinstatement Date"), again be subject to the Suspended Covenants. Notwithstanding the foregoing and any other provision of this Indenture, the Notes or the Guarantees, no Default or Event of Default shall be deemed to exist under this Indenture, the Notes or any Guarantees with respect to the Suspended Covenants based on, and none of the Issuer or any of the Subsidiaries shall bear any liability with respect to the Suspended Covenants for (a) any actions taken or events occurring during a Suspension Period (including without limitation any agreements, Liens, preferred stock, obligations (including Indebtedness), or of any other facts or circumstances or obligations that were incurred or otherwise came into existence during a Suspension Period), or (b) any actions required to be

taken at any time pursuant to any contractual obligation entered into during a Suspension Period, regardless of whether such actions or events would have been permitted if the applicable Suspended Covenants remained in effect during such period.

(c) In the event of any reinstatement of the Suspended Covenants, all Indebtedness incurred during the Suspension Period will be classified as having been Incurred pursuant to clause (c) of Section 3.13 and all Restricted Payments made after such reinstatement will be calculated as though the limitations under Section 3.8 had been in effect prior to, but not during, the Suspension Period. The Trustee shall have no obligation to independently determine or verify if a Suspended Covenant has occurred or notify the holders of the continuance and termination of any Suspension Period, or the occurrence of a Reinstatement Date. The Issuer shall provide written notice to the Trustee of the occurrence of any Reinstatement Date. The Trustee may provide a copy of any such notice to any holder of Notes upon request.

SECTION 3.11. Change of Control Triggering Event.

(a) If a Change of Control Triggering Event occurs, except as provided in Section 3.11(c) or unless the Issuer has previously or concurrently delivered a redemption notice with respect to all the outstanding Notes pursuant to Section 5.7, the Issuer will make an offer (the "Change of Control Offer") to each Holder of Notes to repurchase all or any part (in minimum denominations of \$2,000 and integral multiples of \$1,000 principal amount in excess thereof) of such Holder's Notes at a repurchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest, if any, on the Notes repurchased, to, but not including, the date of repurchase (the "Change of Control Payment"). Within 30 days following the date of any Change of Control Triggering Event, or, at the Issuer's option, prior to any Change of Control Triggering Event but after the public announcement of the Change of Control Triggering Event, the Issuer shall mail (or in the case of holders of book-entry interests, transmit electronically in accordance with the applicable procedures of DTC) a notice to Holders describing the transaction or transactions that constitute the Change of Control Triggering Event and offering to repurchase the Notes on the date specified in the notice (the "Change of Control Payment Date"), which date shall be no earlier than 30 days and no later than 60 days from the date such notice is so mailed or transmitted (subject to the next succeeding sentence), pursuant to the procedures required by this Indenture and described in such notice. The notice shall state, if so mailed or transmitted prior to the date of consummation of the Change of Control Triggering Event, that the offer to repurchase the Notes is conditioned on the Change of Control Triggering Event occurring on or prior to the Change of Control Payment Date specified in the notice; provided, that if a conditional Change of Control Offer is made, the Change of Control Payment Date may be delayed, in the Issuer's discretion, until such time as such Change of Control Triggering Event shall have occurred, or if such Change of Control Triggering Event shall not have occurred by the applicable Change of Control Payment Date (whether the original Change of Control Payment Date or the Change of Control Payment Date so delayed), then such Change of Control Offer may be rescinded by the Issuer.

(b) The Issuer shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control Triggering Event. To the extent that the provisions of any securities laws, rules or regulations conflict with this Section 3.11 and Section 7 of the Notes, the Issuer shall comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Section 3.11 or Section 7 of the Notes by virtue of such conflicts and compliance with law.

(c) On the Change of Control Payment Date, the Issuer shall, to the extent lawful:

(i) accept for purchase all Notes or portions of Notes properly tendered (and not properly withdrawn) pursuant to the Change of Control Offer;

(ii) deposit by 11:00 a.m. New York City time with the paying agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered (and not properly withdrawn) and accepted for purchase by the Issuer; and

(iii) deliver or cause to be delivered to the Trustee (if not previously delivered to the Trustee by the Holders) the Notes accepted for purchase, together with an Officer's Certificate stating the aggregate principal amount of Notes being purchased by the Issuer.

(d) The Paying Agent shall promptly mail (or in the case of holders of book-entry interests, transmit electronically in accordance with the applicable procedures of DTC) to each Holder of Notes properly tendered (and not properly withdrawn) and accepted for purchase by the Issuer, the Change of Control Payment for the Notes, and the Trustee, upon receipt of an authentication order, shall promptly authenticate and mail to each Holder a new Note (or in the case of book-entry interests cause to be transferred by book-entry an interest in the applicable global note) equal in principal amount to any unpurchased portion of any Notes surrendered; *provided* that each new Note will be in a minimum principal denomination of \$2,000 or an integral multiple of \$1,000 in excess thereof.

(e) Notwithstanding anything to the contrary in this Section 3.11, the Issuer shall not be required to make a Change of Control Offer Triggering Event to repurchase the Notes upon a Change of Control Triggering Event if a third party makes an offer in the manner, at the times and otherwise in compliance with the requirements for a Change of Control Offer made by us, and such third party purchases all Notes properly tendered (and not properly withdrawn) under its offer.

SECTION 3.12. Reports.

(a) To the extent the Issuer is required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Issuer will furnish to the Trustee and to the Holders and to the Holders within 15 days after the Issuer is required to file (including any extension period under Rule 12b-25 under the Exchange Act) the same with the SEC, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the SEC may from time to time by rules and regulations prescribe) which the Issuer may be required to file with the SEC pursuant to Section 13 or Section 15(d) of the Exchange Act; or, if the Issuer is not required to file information, documents or reports pursuant to either of said Sections, then it shall file with the Trustee and the SEC, in accordance with rules and regulations prescribed from time to time by the SEC, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Exchange Act, in respect of a security listed and registered on a national securities exchange as may be prescribed from time to time in such rules and regulation.

(b) To the extent any such information is not so filed or furnished, as applicable, within the time periods specified above and such information is subsequently filed or furnished, as applicable, the Issuer will be deemed to have satisfied its obligations with respect thereto at such time and any Default or Event of Default with respect thereto shall be deemed to have been cured. The filing by the Issuer of such information and such reports with the SEC shall satisfy any requirement under this Indenture to furnish such reports to the Trustee and to Holders; it being understood that the Trustee shall have no responsibility to determine whether the Issuer has made such filings. In addition, to the extent not satisfied by the foregoing, the Issuer will agree that, for so long as any Notes are outstanding, it will furnish to the Trustee and to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(c) Delivery of reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such reports, information and documents shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's, any Guarantor's or any other Person's compliance with any of its covenants under this Indenture or the Notes (as to which the Trustee is entitled to rely exclusively on Officer's Certificates delivered pursuant to this Indenture).

SECTION 3.13. Limitation on Guarantor Indebtedness. The Issuer shall not permit any Guarantor to create, incur, assume, Guarantee, or otherwise become liable in respect of any Indebtedness, except:

(a) (%6) Parity Lien Obligations permitted pursuant to clause (a) of the definition of "Permitted Liens" and any other Indebtedness that would be permitted pursuant to such clause (a) if such other Indebtedness were treated for such purpose as Parity Lien Obligations (and, in each case, amendments, extensions, renewals, refinancings and replacements, in whole or in part, of any such Indebtedness that do not increase the outstanding principal amount thereof (other than in respect of any accrued interest, premium, fees, costs or expenses payable in connection with such amendment, extension, renewal, refinancing or replacement)) and Guarantees of such Parity Lien Obligations and any such other Indebtedness;

(b) Indebtedness represented by the Note Guarantees in respect of the Notes issued on the Issue Date;

(c) Indebtedness existing on the Issue Date and amendments, extensions, renewals, refinancings and replacements, in whole or in part, of any such Indebtedness that do not increase the outstanding principal amount thereof (other than in respect of any accrued interest, premium, fees, costs or expenses payable in connection with such amendment, extension, renewal, refinancing or replacement);

(d) Indebtedness under Credit Facilities in an aggregate principal amount not to exceed the greater of (x) \$1,250,000,000 and (y) the sum of (1) 75% of the net book value of the Issuer and its Subsidiaries' accounts receivable at such date plus (2) 90% of the net book value of the Issuer and its Subsidiaries' inventory at such date, in each case and amendments, extensions, renewals, refinancings and replacements, in whole or in part, of any such Indebtedness that do not increase the outstanding principal amount thereof (other than in respect of any accrued interest, premium, fees, costs or expenses payable in connection with such amendment, extension, renewal, refinancing or replacement); provided that, net book value shall be determined in accordance with GAAP and shall be calculated using amounts reflected on the most recent consolidated balance sheet of the Issuer and its Subsidiaries that is internally available;

(e) Guarantees of Indebtedness; provided that the Indebtedness so Guaranteed would have been permitted to be incurred pursuant to this Section 3.13, assuming for purposes of this clause (e) that the Person incurring the Indebtedness so Guaranteed were subject to this Section 3.13;

(f) Permitted Indebtedness;

(g) Indebtedness incurred to finance the acquisition, construction or improvement of any fixed or capital assets (other than real property or fixtures constituting Collateral or Designated Real Estate Assets as of the Issue Date or required to become Collateral) or to finance the acquisition of computer hardware or software or other information technology assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals, refinancings and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof (other than in respect of any accrued interest, premium, fees, costs or expenses payable in connection therewith); provided that (i) such Indebtedness is incurred prior to or within twelve months after such acquisition or the completion of such construction or improvement and (ii) such Indebtedness shall not be incurred on or with respect to any assets that constitute or have become Collateral or any Designated Real Estate Assets;

(h) other Indebtedness in an aggregate principal amount not to exceed the sum of an amount at any time outstanding equal to \$100,000,000;

(i) Guaranteed Ratio Debt;

(j) Indebtedness supported by a letter of credit issued pursuant to the Revolving Credit Facility, in a principal amount not in excess of the stated amount of such letter of credit;

(k) [Reserved];

(l) unsecured reimbursement obligations in respect of standby letters of credit issued in the ordinary course of business for the Issuer or any other Subsidiary so long as only the Issuer or any Guarantor (other than PropCo) is obligated to reimburse the issuer thereof in the case of any drawing;

(m) Indebtedness owing to the Issuer or any other Subsidiary; provided that any Indebtedness of a Guarantor owing to the Issuer or any Subsidiary that is not a Guarantor shall be subordinated in right of payment to such Guarantor's obligations under the Indenture;

(n) Indebtedness owed to any Person (including obligations in respect of letters of credit for the benefit of such Person) providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;

(o) Indebtedness in respect of non-speculative Swap Agreements relating to the business or operation of such Guarantor; and

(p) reimbursement obligations incurred in the ordinary course of business.

Notwithstanding the foregoing, PropCo may not incur or guarantee any Indebtedness pursuant to the foregoing clauses (a) – (p), other than additional Parity Lien Obligations incurred pursuant to clauses (a), (b) or (h) and Indebtedness incurred pursuant to clauses (xvii), (xii), (xiv), (xv) and (xvi) (and refinancings thereof that do not increase the outstanding principal amount thereof (other than in respect of any accrued interest, premium, fees, costs or expenses payable in connection with such amendment, extension, renewal, refinancing or replacement)) that are permitted pursuant to Section 3.6.

For purposes of this Section 3.13, in the event that any Indebtedness of a Guarantor meets the criteria of more than one of the clauses above, the Issuer, in its sole discretion, will classify, and may reclassify, such Indebtedness and only be required to include the amount and type of such Indebtedness in one of the above clauses, and the Indebtedness of a Guarantor may be divided and classified and reclassified into more than one of the types of Indebtedness of a Guarantor described above. In addition, for purposes of calculating compliance with this Section 3.13, in no event will the amount of any Indebtedness of a Guarantor be required to be included more than once despite the fact more than one Person is or becomes liable with respect to any related Indebtedness (for example, and for the avoidance of doubt, in the case where more than one Guarantor incurs Indebtedness or otherwise becomes liable for such Indebtedness, the amount of such Indebtedness shall only be included once for purposes of such calculations).

SECTION 3.14. Statement by Officers as to Default. The Issuer shall deliver to the Trustee, within 30 days after the occurrence thereof, written notice of any events of which it is aware that would constitute a Default or Event of Default, their status and what action the Issuer is taking or proposes to take in respect thereof.

SECTION 3.15. Master Leases and Other Leases.

Each of Issuer and PropCo shall duly and punctually perform, observe and comply with each Master Lease. Without the consent of the Holders of at least two-thirds of the aggregate principal amount of the Notes then outstanding, Issuer and PropCo shall not alter, amend, modify, supplement, change the terms of, grant a forbearance, waiver, release or consent under, assign, transfer, pledge, terminate or accept a surrender or termination of any Master Lease. No rent payable under any Master Lease shall be collected more than one month in advance. Neither Issuer nor PropCo shall enter into any new lease or sublease with respect to any Designated Real Estate Asset (each, a “New Lease”) without the consent of the Holders of at least two-thirds of the aggregate principal amount of the Notes then outstanding. Each New Lease shall be on commercially reasonable terms and shall provide that it is subordinate to the applicable Mortgage. In the event that any New Lease is executed in accordance with the terms of this Section 3.15, such New Lease shall not be altered, modified, supplemented, changed, assigned, transferred, pledged, terminated or surrendered without the consent of the Holders of at least two-thirds of the aggregate principal amount of the Notes then outstanding.

SECTION 3.16. Operation and Maintenance of Properties. Each of the Issuer and PropCo shall (i) operate and maintain each Designated Real Estate Asset in a first-class manner (and in all material respects consistent with the manner in which such Designated Real Estate Asset is operated and maintained as of the Issue Date), ordinary wear and tear and damage caused by casualty and condemnation excepted, (ii) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a material adverse effect, (iii) use the standard of care typical in its industry in the operation and maintenance of its facilities, (iv) comply, in all material respects, with the terms and conditions of all Material Real Property Documents, leases, license agreements and concession agreements relating to any Designated Real Estate Asset and easements, rights-of-way and other matters appearing on title to any Designated Real Estate Asset, and (v) not enter into, modify, amend, terminate, surrender or assign any Material Real Property Document without the consent of the Holders of at least two-thirds of the aggregate principal amount of the Notes then outstanding. Each Designated Real Estate Asset shall be self-managed by Issuer pursuant to the terms of the applicable Master Lease.

SECTION 3.17. Compliance with Laws and Insurance Requirements. The Issuer and each of the Guarantors shall comply with, and cause each Designated Real Estate Asset to be operated in compliance with all laws, orders, writs, injunctions, decrees and Governmental Approvals applicable to it or to its business or property or the Designated Real Estate Assets, except in such instances in which (a) such law, order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) the failure to comply therewith could not reasonably be expected to have a material adverse effect. Neither Issuer nor PropCo will petition, request or take any legal or administrative action that seeks to amend, supplement or modify any Governmental Approval in any material respect, unless such amendment, supplement or modification would not reasonably be expected to result in a material adverse effect on the applicable Designated Real Estate Asset or the use, operation, ownership or value thereof. If any Governmental Approval related to any Designated Real Estate Asset shall be rescinded, terminated, cancelled, repealed, invalidated, suspended, enjoined, amended, modified or supplemented (each, a “Governmental Approval Modification”) and such occurrence would reasonably be expected to have a material adverse effect on the applicable Designated Real Estate Asset or the use, operation, ownership or value thereof, then Issuer and/or PropCo, as applicable, shall (i) promptly and diligently apply for and use commercially reasonable efforts to obtain a replacement Governmental Approval on terms and conditions that are similar in all material respects to those of such Governmental Approval as in effect prior to such Governmental Approval Modification, or (ii) take such other lawful action as shall be reasonably necessary to mitigate or eliminate such material adverse effect. The Issuer shall operate each Designated Real Estate Asset in accordance with applicable insurance policies required by Section 12.4 of this Indenture.

SECTION 3.18. Casualty or Condemnation.

Issuer shall promptly give the Collateral Trustee written notice of any (a) casualty or loss or (b) known actual or threatened commencement of any condemnation or eminent domain proceeding affecting any Designated Real Estate Asset or any portion thereof, and Issuer shall deliver to the Collateral Trustee copies of any and all material papers served in connection with such condemnation or eminent domain proceeding. To the extent commercially reasonable under the circumstances, Issuer and PropCo will diligently pursue in all material respects all rights and remedies under any insurance policy, agreement or other document with respect to any compensation which Issuer or PropCo has determined by to be available to Issuer or PropCo in connection therewith. All Net Available Cash on account of any Casualty Event shall be applied in accordance with Section 3.5(a)(iii) above as though such Net Available Cash from such Casualty Event was Net Available Cash from an Asset Disposition.

SECTION 3.19. Material Notices. Issuer shall promptly deliver to Collateral Trustee copies of any and all notices of a material default or breach which is reasonably expected to result in a termination of any Material Real Property Document.

SECTION 3.20. Title to the Designated Real Estate Assets. Issuer and PropCo will warrant and defend fee title to each Designated Real Estate Asset and every part thereof vested in PropCo, subject only to Permitted Encumbrances.

SECTION 3.21. Alterations. Without the consent of the Holders of at least two-thirds of the aggregate principal amount of the Notes then outstanding, neither Issuer nor PropCo shall make any alteration to any improvements at any Designated Real

Estate Asset to the extent such alteration (a) could reasonably be expected to have a material adverse effect on such applicable Designated Real Estate Asset or the use, operation, ownership or value thereof, or (b) would adversely affect any structural component of such Designated Real Estate Asset or any material utility or HVAC system contained in such Designated Real Estate Asset.

Article IV.

CONSOLIDATION, MERGER OR SALE OF ASSETS

SECTION 4.1. Consolidation, Merger or Sale of Assets.

(a) The Issuer shall not consolidate with or merge into any other corporation or convey or transfer all or substantially all of its properties or assets to any Person, unless:

(i) the corporation formed by such consolidation or into which the Issuer is merged or the Person which acquires by conveyance or transfer the Issuer's properties or assets substantially as an entirety shall be a corporation organized and existing under the laws of the United States of America or any State thereof or the District of Columbia, and shall expressly assume, by supplemental indenture executed and delivered to the Trustee, the due and punctual payment of the principal of (and premium, if any) and interest, if any, on the Notes and the performance or observance of every covenant of this Indenture on the Issuer's part to be performed or observed and shall pursuant to supplements to the Security Documents take such action as may be required to assume the obligations of the Issuer thereunder and maintain the perfection of the Liens securing the Parity Lien Obligations;

(ii) the Issuer has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance or transfer and such supplemental indenture comply with this Article IV and that all conditions precedent provided for in this Indenture relating to such transaction have been complied with; and

(iii) immediately after giving effect to such transaction, no Event of Default, and no event which, after notice or lapse of time, or both, would become an Event of Default, shall have happened and be continuing.

(b) Upon any consolidation or merger, or any conveyance or transfer of all or substantially all of the Issuer's properties and assets in accordance with this Section 4.1, the successor corporation formed by such consolidation or into which the Issuer is merged or to which such conveyance or transfer is made will succeed to, and be substituted for, the Issuer under this Indenture with the same effect as if the successor corporation had been named as the Issuer in this Indenture, and the predecessor shall be released from all obligations and covenants under this Indenture and the Notes. In the event of any such conveyance or transfer, the Issuer as the predecessor may be dissolved, wound up and liquidated at any time thereafter;

(c) Unless the Note Guarantee of a Guarantor is permitted to be released in connection with such transaction pursuant to Article X, no Guarantor shall consolidate with or merge into any other Person or convey or transfer all or substantially all of its properties or assets to any Person unless:

(i) the other Person is the Issuer or another Guarantor, or

(ii) either (x) a Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person shall be a corporation, limited liability company or limited partnership organized and existing under the laws of the United States of America or any State thereof or the District of Columbia and expressly assumes by a supplemental indenture all of the obligations of the Guarantor under its Note Guarantee, the Indenture and the Security Documents, as applicable, and shall pursuant to supplements to the Security Documents take such action as may be required to assume the obligations of such Guarantor thereunder and maintain the perfection of the Liens securing the Parity Lien Obligations and immediately after giving effect to the transaction, no Default has occurred and is continuing;

(iii) the transaction does not violate Section 3.5; or

(iv) the Issuer has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance or transfer and such supplemental indenture comply with this Article IV and that all conditions precedent provided for in this Indenture relating to such transaction have been complied with.

Notwithstanding anything to the contrary in this Section 4.1, while PropCo holds any Collateral, it shall not merge, consolidate or transfer all of substantially all of its assets to the Issuer or any of its Subsidiaries other than PropCo.

SECTION 4.2. Successor Corporation Substituted.

Upon any consolidation or merger, or any conveyance or transfer of all or substantially all of the Issuer's properties and assets in accordance with the provisions of Section 4.1, the successor corporation formed by such consolidation or into which the Issuer is merged or to which such conveyance or transfer is made will succeed to, and be substituted for, the Issuer with the same effect as if the successor corporation had been named as the Issuer, and the predecessor shall be released from all obligations and covenants under this Indenture and the Notes. In the event of any such conveyance or transfer, the Issuer as the predecessor may be dissolved, wound up and liquidated at any time thereafter.

Article V.

REDEMPTION OF SECURITIES

SECTION 5.1. Notices and Opinions to Trustee.

(a) If the Issuer elects to redeem Notes pursuant to the optional redemption provisions of Section 5.7, it must furnish to the Trustee, at least 30 days but not more than 60 days before a date fixed for redemption (the "Redemption Date") (or such longer period permitted by Section 5.3(a)), an Officer's Certificate setting forth:

- (i) the clause of this Indenture pursuant to which the redemption shall occur;
- (ii) the Redemption Date;
- (iii) the principal amount of Notes to be redeemed; and
- (iv) the redemption price.

If the redemption price is not known at the time such notice is to be given, the actual redemption price shall be set forth in an Officer's Certificate of the Issuer delivered to the Trustee no later than two (2) Business Days prior to the redemption date.

SECTION 5.2. Selection of Notes to Be Redeemed or Purchased. If less than all of the Notes are to be redeemed at any time, the Trustee shall select the Notes for redemption in compliance with the requirements of the principal securities exchange, if any, on which such Notes are listed, as certified to the Trustee by the Issuer, and by lot, in compliance with the requirements of DTC, or if the Notes are not so listed or such exchange prescribes no method of selection and such Notes are not held through DTC or DTC prescribes no method of selection, on a pro rata basis, subject to adjustments so that no Note in an unauthorized denomination remains outstanding after such redemption; *provided, however*, that no Note of \$2,000 in aggregate principal amount or less shall be redeemed in part.

SECTION 5.3. Notice of Redemption.

(a) At least 30 days but not more than 60 days before a Redemption Date, the Issuer shall send or cause to be sent, by electronic delivery (in the case of book-entry interests) or by first class mail postage prepaid, a notice of redemption to each Holder (with a copy to the Trustee) whose Notes are to be redeemed at the address of such Holder appearing in the security register or otherwise in accordance with the procedures of DTC, except that redemption notices may be delivered electronically (in the case of book-entry interests) or mailed more than 60 days prior to a Redemption Date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture pursuant to Article VIII or XI.

(b) The notice will identify the Notes (including the CUSIP or ISIN number) to be redeemed and will state:

- (i) the Redemption Date;
- (ii) the redemption price;
- (iii) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the Redemption Date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Note;
- (iv) the name and address of the Paying Agent;
- (v) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (vi) that, unless the Issuer defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the Redemption Date;
- (vii) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed;

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

(ix) any conditions to redemption.

(c) If any Note is to be redeemed in part only, the notice of redemption that relates to that Note shall state the portion of the principal amount thereof to be redeemed, in which case a portion of the original Note will be issued in the name of the Holder thereof upon cancellation of the original Note. In the case of a Global Note, an appropriate notation will be made on such Note to decrease the principal amount thereof to an amount equal to the unredeemed portion thereof. Subject to the terms of the applicable redemption notice (including any conditions contained therein), Notes called for redemption become due on the date fixed for redemption. On and after the Redemption Date, unless the Issuer defaults in the payment of the redemption price, interest ceases to accrue on Notes or portions of them called for redemption.

(d) At the Issuer's request, the Trustee will give the notice of redemption in the Issuer's name and at their expense; *provided, however*, that the Issuer has delivered to the Trustee, at least five (5) Business Days (or such shorter period as may be agreed to by the Trustee) before notice of redemption is required to be sent or caused to be sent to Holders pursuant to this Section 5.3, an Officer's Certificate requesting that the Trustee give such notice, which shall include a form of the notice setting forth the information provided in the preceding paragraphs of this Section 5.3.

SECTION 5.4. Effect of Notice of Redemption. Once notice of redemption is sent in accordance with Section 5.3, Notes called for redemption become irrevocably due and payable on the Redemption Date at the redemption price (subject to any conditions set forth in such notice). Notice of redemption may, at the Issuer's option and discretion, be subject to the satisfaction of any conditions precedent contained in such notice of redemption. Notice of any redemption of the Notes may be subject to the satisfaction (or waiver by the Issuer in the Issuer's discretion) of any conditions precedent to such redemption specified in the applicable notice. If such redemption is subject to satisfaction of one or more conditions precedent, the Redemption Date may be delayed, in the Issuer's discretion, until such time as any or all such conditions shall be satisfied (or waived by the Issuer in the Issuer's discretion), or such redemption may not occur and the notice of redemption may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Issuer in the Issuer's discretion) by the applicable Redemption Date (whether the original Redemption Date or the Redemption Date so delayed). The Issuer shall provide written notice to the Trustee prior to the close of business two Business Days prior to the Redemption Date if any such redemption has been rescinded or delayed, and upon receipt the Trustee shall provide such notice to each Holder of the Notes in the same manner in which the notice of redemption was given.

SECTION 5.5. Deposit of Redemption Price. Prior to 10:00 a.m. (Eastern Time) on the redemption date, the Issuer will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption price of, and accrued interest if any, on, all Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent will promptly return to the Issuer any money deposited with the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the redemption price of, and accrued interest if any, on, all Notes to be redeemed.

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

SECTION 5.6. Notes Redeemed in Part. Upon surrender of a Note that is redeemed in part, the Issuer will issue and, upon receipt of an Issuer Order, the Trustee will authenticate for the Holder at the expense of the Issuer a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered; *provided*, that each such new Note will be in a minimum principal amount of \$2,000 or integral multiple of \$1,000 in excess thereof.

SECTION 5.7. Optional Redemption.

(a) At any time, and from time to time, prior to May 15, 2022, the Issuer may redeem the Notes in whole or in part, at its option, at a redemption price equal to the greater of:

- (i) 100% of the principal amount of the Notes to be redeemed; and
- (ii) the excess of:

(A) the present value at such redemption date of (1) the redemption price of the Note at May 15, 2022 (such redemption price being set forth in the table under clause (e) below) plus (2) all required interest payments due on the Note through May 15, 2022 (excluding interest paid prior to the redemption date and accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over

(B) the principal amount of the Note,

(iii) *plus*, in each case, any accrued and unpaid interest, if any, to, but not including, the date of redemption (subject to the right of Holders on the relevant record date to receive interest due on the relevant interest payment date).

In the event of any redemption pursuant to this clause (a), the Issuer shall calculate or cause the calculation of the redemption price, and the Trustee shall have no duty to calculate or verify the calculation thereof.

(b) At any time prior to May 15, 2022, the Issuer may on one or more occasions redeem up to 35% of the aggregate principal amount of Notes issued under this Indenture at a redemption price equal to 108.750% of the principal amount plus accrued and unpaid interest, if any, to, but not including, the date of redemption (subject to the right of Holders on the relevant record date to receive interest due on the relevant interest payment date) in an amount of up to the amount of net cash proceeds received by or contributed to the Issuer from one or more Equity Offerings; *provided that* (i) at least 65% of the aggregate principal amount of Notes originally issued under this Indenture (including Additional Notes but excluding Notes held by the Issuer and its Subsidiaries) remains outstanding immediately after the occurrence of such redemption, and (ii) notice of such redemption is given within 90 days of the date of the closing of such Equity Offering. The Trustee shall select the Notes to be redeemed in the manner described under Sections 5.1 through 5.6.

(c) [Reserved].

(d) Except pursuant to paragraphs (a) and (b) of this Section 5.7, the Notes will not be redeemable at the Issuer's option prior to May 15, 2022.

(e) On or after May 15, 2022, the Issuer may redeem all or a part of the Notes at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, on the Notes redeemed, to, but not including, the applicable date of redemption, if redeemed during the twelve-month period beginning on May 15 of the years indicated below, subject to the rights of Holders on the relevant record date to receive interest on the relevant interest payment date:

<u>Year</u>	<u>Percentage</u>
2022	104.375%
2023	102.188%
2024 and thereafter	100.000%

(f) Unless the Issuer defaults in the payment of the redemption price, on and after the Redemption Date (whether the original Redemption Date or the Redemption Date so delayed), interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable Redemption Date. On or prior to any redemption date, we are required to deposit with the paying agent money sufficient to pay the redemption price of, and accrued and unpaid interest to, but not including, the redemption date, on the Notes to be redeemed on such redemption date. If less than all of the Notes are to be redeemed, the Notes to be redeemed will be selected by the Trustee by lot or another method in accordance with the applicable procedures of DTC.

(g) Any redemption pursuant to this Section 5.7 shall be made pursuant to the provisions of Sections 5.1 through 5.6.

SECTION 5.8. Mandatory Redemption. The Issuer is not required to make mandatory redemption payments or sinking fund payments with respect to the Notes.

Article VI.

DEFAULTS AND REMEDIES

SECTION 6.1. Events of Default.

(a) Each of the following is an "Event of Default":

(i) default in any payment of interest on any Note when due and payable, continued for 30 days;

(ii) default in payment of principal of, or premium, if any, on, the Notes at maturity;

(iii) failure to comply for 90 days after written notice by the Trustee or by the Holders of 25% in principal amount of the outstanding Notes with any agreement or obligation for the benefit of the Holders of the Notes contained in this Indenture or, subject to the requirements and exceptions set forth in Section 12.1, to the extent such failure to comply affects in any material respect the enforceability, validity, perfection or priority of the Liens on a material portion of the Collateral, the Security Documents;

(iv) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Issuer or any of its Significant Subsidiaries (or the payment of which is Guaranteed by the Issuer or any of its Significant Subsidiaries) other than Secured Indebtedness owed to the Issuer or a Subsidiary, whether such Indebtedness or Guarantee now exists, or is created after the date hereof, which default:

(A) is caused by a failure to pay principal of such Indebtedness, at its stated final maturity (after giving effect to any applicable grace periods) provided in such Indebtedness (“payment default”); or

(B) results in the acceleration of such Indebtedness prior to its stated final maturity (“cross acceleration provision”);

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness for which there has been a payment default or the maturity of which has been so accelerated and, in each case, remains unpaid, aggregates \$100.0 million or more;

(v) the entry of an order for relief in respect of any petition filed against any of the Issuer or a Significant Subsidiary under any Bankruptcy Code, or the entry of a decree or order by a court having competent jurisdiction in the premises in respect of any petition filed or action taken against the Issuer or a Significant Subsidiary looking to reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any other present or future federal or state statute, law or regulation, resulting in the appointment of a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Issuer or a Significant Subsidiary or of any substantial part of its property, or resulting in the winding-up or liquidation of its affairs, all without the consent or acquiescence of the Issuer or a Significant Subsidiary, and the continuance of any such decree or order is unstayed and in effect for a period of 60 consecutive days;

(vi) the filing of a petition for relief under any Bankruptcy Code by any of the Issuer or a Significant Subsidiary, or the consent, acquiescence or taking of any action by any of the Issuer or a Significant Subsidiary in support of a petition filed by or against it looking to reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any other present or future federal or state statute, law or regulation, or the appointment, with the consent of the Issuer or a Significant Subsidiary, of any receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of the Issuer or a Significant Subsidiary or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Issuer or a Significant Subsidiary in furtherance of any such action;

(vii) (A) any Note Guarantee by a Guarantor that is a Significant Subsidiary or any Note Guarantee by PropCo (regardless of whether PropCo is a Significant Subsidiary) ceases to be in full force and effect, other than in accordance with the terms of this Indenture or (B) a Guarantor that is a Significant Subsidiary or PropCo (regardless of whether PropCo is a Significant Subsidiary) denies or disaffirms its obligations under its Note Guarantee, other than in accordance with this Indenture; or

(viii) (%3) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted by the Issuer or any Guarantor not to be, a valid and perfected Lien on any Collateral having an aggregate fair value of \$25.0 million or more, with the priority required by the relevant Security Document, in each case for any reason other than (1) by reason of express release pursuant to the terms of this Indenture or the terms of any Security Document or (2) as a result of the sale or other disposition of the applicable Collateral to a Person that is not the Issuer or a Guarantor in a transaction not prohibited under this Indenture, or (%5) the Issuer or any Guarantor shall contest the validity or enforceability of its obligations under any Security Document in writing or deny in writing that it has any further liability under any Security Document to which it is a party.

(b) Notwithstanding the foregoing, a default under Section 6.1(a)(iii) will not constitute an Event of Default until the Trustee or the Holders of 25% in principal amount of the outstanding Notes notify the Issuer (with a copy to the Trustee, if given

by the Holders) of the default and the Issuer does not cure such default within the time specified in Section 6.1(a)(iii) after receipt of such notice.

SECTION 6.2. Acceleration.

(a) If an Event of Default (other than an Event of Default described in Section 6.1(a)(v) or (vi) with respect to the Issuer) occurs and is continuing, the Trustee by written notice to the Issuer or the Holders of at least 25% in principal amount of the outstanding Notes by written notice to the Issuer and the Trustee, may declare the principal of, premium, if any, and accrued and unpaid interest on all the Notes to be due and payable. Upon such a declaration, such principal, premium, if any, and accrued and unpaid interest, if any, will be due and payable immediately.

In the event of a declaration of acceleration of the Notes because an Event of Default described in Section 6.1(a)(iv) has occurred and is continuing, the declaration of acceleration of the Notes shall be automatically annulled if the event of default or payment default triggering such Event of Default pursuant to Section 6.1(a)(iv) shall be remedied or cured, or waived by the holders of the Indebtedness, or the Indebtedness that gave rise to such Event of Default shall have been discharged in full, in each case, within 30 days after the declaration of acceleration with respect thereto and if:

- (i) the annulment of the acceleration of the Notes would not conflict with any judgment or decree of a court of competent jurisdiction; and
- (ii) any other existing Events of Default, except nonpayment of principal, premium, if any, or interest, if any, on the Notes that became due solely because of the acceleration of the Notes, have been cured or waived.

(b) If an Event of Default described in Section 6.1(a)(v) or (vi) with respect to the Issuer occurs and is continuing, the principal of, premium, if any, and accrued and unpaid interest, if any, on all the Notes will become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders.

(c) Any Default or Event of Default for the failure to comply with the time periods prescribed under Section 3.12, or otherwise to deliver any notice or certificate pursuant to any other provision of this Indenture shall be deemed to be cured upon the filing, furnishing or delivery of any such report or document required by Section 3.12 or such notice or certificate, as applicable, even though such delivery is not within the prescribed period specified herein.

SECTION 6.3. Other Remedies. If an Event of Default with respect to the Notes occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders of the Notes by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Indenture or in aid of the exercise of any power granted herein, or to enforce any other proper contractual remedy under this Indenture.

SECTION 6.4. Waiver of Past or Existing Defaults. The Holders of a majority in principal amount of the outstanding Notes by written notice to the Trustee may, on behalf of all of the Holders, may waive, by their consent (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), past or existing Defaults or Events of Default and its consequences under this Indenture except a Default or Event of Default in the payment of the principal of, or premium, if any, or interest, if any, on a Note and rescind any acceleration with respect to the Notes and its consequences if such rescission would not conflict with any judgment or decree of a court of competent jurisdiction.

SECTION 6.5. Control by Majority. Subject to certain restrictions set forth herein and the Collateral Trust Agreement, the Holders of a majority in principal amount of the outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee pursuant to this Indenture or of exercising any trust or power conferred on the Trustee pursuant to this Indenture. The Trustee, however, may refuse to follow any direction that conflicts with law or this Indenture or the Notes or, subject to Sections 7.1 and 7.2, that the Trustee determines is unduly prejudicial to the rights of any Holder or that would involve the Trustee in personal liability; *provided, however*, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any such action hereunder, the Trustee and the Collateral Trustee shall be entitled to indemnification satisfactory to the Trustee and the Collateral Trustee against all losses, liabilities, costs and expenses that may be caused by taking or not taking such action.

SECTION 6.6. Limitation on Suits. Subject to Section 6.7, no Holder may pursue any remedy with respect to this Indenture or the Notes unless:

- (a) such Holder has previously given the Trustee written notice that an Event of Default is continuing;
- (b) Holders of at least 25% in principal amount of the outstanding Notes have requested in writing the Trustee to pursue the remedy;

(c) such Holders have offered in writing the Trustee security or indemnity satisfactory to the Trustee against any loss, liability, cost or expense;

(d) the Trustee has not complied with such request within 60 days after the receipt of the written request and the offer of security or indemnity; and

(e) the Holders of a majority in principal amount of the outstanding Notes have not given the Trustee a written direction that, in the opinion of the Trustee, is inconsistent with such request within such 60-day period.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

SECTION 6.7. Rights of Holders to Receive Payment. Notwithstanding any other provision of this Indenture (including, without limitation, Section 6.6), the contractual right expressly set forth in this Indenture of any Holder to receive payment of principal of, premium, if any, or interest, if any, on the Notes held by such Holder, on or after the respective due dates expressed or provided for in the Notes, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be amended without the consent of such Holder.

SECTION 6.8. Collection Suit by Trustee. If an Event of Default specified in Section 6.1(a)(i) or (ii) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Issuer for the whole amount then due and owing (together with interest on any unpaid interest, if any, to the extent lawful) and the amounts provided for in Section 7.7.

SECTION 6.9. Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders allowed in any judicial proceedings relative to the Issuer, its Subsidiaries or its or their respective creditors or properties and, unless prohibited by law or applicable regulations, may be entitled and empowered to participate as a member of any official committee of creditors appointed in such matter and may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.7.

No provision of this Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, compromise, adjustment or composition affecting the Notes or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 6.10. Priorities.

(a) Subject to the provisions of the Collateral Trust Agreement, if the Trustee collects any money or property pursuant to this Article VI it shall pay out the money or property in the following order:

FIRST: to the Trustee and the Collateral Trustee for amounts due to each of them under this Indenture;

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

THIRD: to the Issuer, or to the extent the Trustee collects any amount for any Guarantor, to such Guarantor.

(b) The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 6.10. At least fifteen (15) days before such record date, the Issuer shall send or cause to be sent to each Holder and the Trustee a notice that states the record date, the payment date and amount to be paid.

SECTION 6.11. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.7 or a suit by Holders of more than 10% in outstanding principal amount of the Notes.

TRUSTEE

SECTION 7.1. Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise as a prudent Person would exercise or use under the circumstances in the conduct of such person's own affairs.

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

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

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

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

(i) this paragraph does not limit the effect of paragraph (b) of this Section 7.1;

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

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.5.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), (c) and (e) of this Section 7.1.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability. The Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request or direction of any Holders of Notes, unless such Holders have offered to the Trustee security or indemnity satisfactory to the Trustee against the costs, losses, expenses and liabilities which might be incurred by it in compliance with such request or direction. The Trustee shall not be required to give any bond or surety in respect of the performance of its powers or duties hereunder. The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty of the Trustee.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer.

(g) Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

SECTION 7.2. Rights of Trustee. Subject to Section 7.1:

(a) The Trustee may conclusively rely upon any document (whether in original or facsimile form) believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Notwithstanding anything to the contrary contained herein, before the Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on any Officer's Certificate, Opinion of Counsel, resolution of the Board of Directors of the Issuer, or other request, notice or direction delivered to it pursuant to the terms of this Indenture. The Trustee may consult with counsel of its selection and the written or verbal advice of such counsel or any Opinion of Counsel will be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer will be sufficient if signed by an Officer of the Issuer.

(f) The Trustee will be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders have offered to the Trustee an indemnity or security reasonably satisfactory to it against the losses, liabilities, costs and expenses that might be incurred by it in compliance with such request or direction.

(g) Subject to Section 7.1, the rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder and each Paying Agent, Registrar or Custodian.

(h) Subject to Section 7.1, the Trustee shall not be deemed to have knowledge or notice of any Default or Event of Default unless a Trust Officer of the Trustee has actual knowledge thereof or unless the Issuer or Holders of not less than 25% in aggregate principal amount of the Notes then outstanding notify the Trustee thereof by written notice of such event sent to the Trustee or the Corporate Trust Office in accordance with Section 13.1, and such notice references the Notes and this Indenture.

(i) Subject to Section 7.1(a), the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of Indebtedness or other paper or document, but the Trustee, may, but shall not be required to, make further inquiry or investigation into such facts or matters as it may see fit.

(j) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

(k) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(l) The Trustee may request that the Issuer deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to furnish the Trustee with Officer's Certificates, directions, requests, and any other matters or directions pursuant to this Indenture.

(m) In no event shall the Trustee be responsible or liable for any special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit), irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(n) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

(o) The Trustee shall have no obligation to pursue any action that is not in accordance with applicable law.

SECTION 7.3. Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer or any respective Affiliate of the Issuer with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar or Custodian may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Bonds.

SECTION 7.4. Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture, it will not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

SECTION 7.5. Notice of Defaults. If a Default or Event of Default occurs and is continuing and if it is actually known to a Trust Officer of the Trustee, the Trustee shall send to Holders a notice of the Default or Event of Default within 90 days after the occurrence of such Default or Event of Default. Except in the case of a Default or Event of Default in payment of principal of (or premium, if any, on) or interest, if any, on the Notes, the Trustee may withhold such notice if it in good faith determines that the withholding of such notice is in the interests of the Holders.

SECTION 7.6. [Reserved].

SECTION 7.7. Compensation and Indemnity.

(a) The Issuer shall pay to the Trustee and Collateral Trustee from time to time such compensation as mutually agreed to in writing for its acceptance of this Indenture and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee and Collateral Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. All amounts set forth in the separate fee letter entered into prior to the date hereof are deemed reasonable. Such expenses will include the reasonable compensation, disbursements and expenses of the Trustee's and the Collateral Trustee's agents and counsel.

(b) The Issuer shall indemnify the Trustee and Collateral Trustee against any and all losses, damages, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, the Security Documents and the Collateral Trust Agreement, including the costs and expenses (including reasonable attorneys' fees and expenses and court costs) of enforcing this Indenture against the Issuer (including this Section 7.7) and defending itself against any claim (whether asserted by the Issuer, any Holder or any other Person) or liability in connection with the exercise or performance of any of its rights, powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its gross negligence or willful misconduct as finally determined by a court of competent jurisdiction. The Trustee and Collateral Trustee shall notify the Issuer promptly of any claim for which it may seek indemnity. Failure by the Trustee and Collateral Trustee to so notify the Issuer will not relieve the Issuer of its obligations hereunder. The Issuer shall defend the claim and the Trustee and Collateral Trustee shall cooperate in the defense. Each of the Trustee and Collateral Trustee may have separate counsel and the Issuer shall pay the reasonable fees and expenses of such counsel. The Issuer need not pay for any settlement made without their consent, which consent will not be unreasonably withheld.

(c) When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.1(a)(v) or (vi) occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Code.

(d) The Issuer's obligations set forth in this Section 7.7 shall survive the satisfaction and discharge of this Indenture and the earlier resignation or removal of the Trustee hereunder.

SECTION 7.8. Replacement of Trustee.

(a) A resignation or removal of the Trustee and appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.8.

(b) The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Issuer. The Holders of a majority in aggregate principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Issuer in writing. The Issuer may remove the Trustee if:

(i) the Trustee fails to comply with Section 7.10;

(ii) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Code;

(iii) a custodian or public officer takes charge of the Trustee or its property; or

(iv) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

(d) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Issuer, or the Holders of at least 10% in aggregate principal amount of the then outstanding Notes may petition any

court of competent jurisdiction, at the expense of the Issuer, for the appointment of a successor Trustee.

(e) If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will mail a notice of its succession to Holders. The retiring Trustee will promptly transfer all property held by it as Trustee to the successor Trustee; *provided* all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.7. Notwithstanding replacement of the Trustee pursuant to this Section 7.8, the Issuer's obligations under Section 7.7 will continue for the benefit of the retiring Trustee.

SECTION 7.9. Successor Trustee by Merger. Any Person into which the Trustee or any successor to it in the trusts created by this Indenture shall be merged or converted, or any Person with which it or any successor to it shall be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Trustee or any such successor to it shall be a party, or any Person to which the Trustee or any successor to it shall sell or otherwise transfer all or substantially all of the corporate trust business of the Trustee, shall be the successor Trustee under this Indenture without the execution or filing of any paper or any further act on the part of any of the parties hereto; *provided* that such Person shall be otherwise qualified and eligible under this Article. In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any Notes shall have been authenticated but not delivered by the Trustee then in office, any successor to such Trustee may adopt the certificate of authentication of any predecessor Trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of the Trustee shall have; *provided, however*, that the right to adopt the certificate of authentication of any predecessor Trustee or authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.

SECTION 7.10. Eligibility; Disqualification. There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$50.0 million as set forth in its most recent published annual report of condition.

SECTION 7.11. Security Documents; Collateral Trust Agreement.

(a) By their acceptance of the Notes, the Holders hereby authorize and direct the Trustee to execute and deliver the Collateral Trust Agreement and any Security Document in which the Trustee is named as a party, including any Collateral Trust Agreement or Security Document executed after the Issue Date, and to appoint the Collateral Trustee to act on behalf of the Notes Secured Parties under the Collateral Trust Agreement and any Security Document. It is hereby expressly acknowledged and agreed that, in doing so, the Trustee is (%3) expressly authorized to make the representations attributed to Holders in any such agreements and (%3) not responsible for the terms or contents of such agreements, or for the validity or enforceability thereof, or the sufficiency thereof for any purpose. Whether or not so expressly stated therein, in entering into, or taking (or forbearing from) any action under, the Collateral Trust Agreement or any Security Document, the Trustee shall have all of the rights, immunities, indemnities and other protections granted to it under this Indenture (in addition to those that may be granted to it under the terms of such other agreement or agreements).

(b) Whenever the Trustee is required or requested to deliver any direction to the Collateral Trustee under the terms of this Indenture, the Collateral Trust Agreement and any Security Document in its capacity as Authorized Representative or otherwise, the Trustee shall do so in accordance with the provisions of this Indenture and shall be vested with the rights, privileges and immunities set forth in this Indenture.

Article VIII.

DEFEASANCE AND DISCHARGE PRIOR TO MATURITY

SECTION 8.1. Option to Effect Defeasance. The Issuer may, at its option and at any time, elect to have either Section 8.2 or 8.3 applied to all outstanding Notes upon compliance with the conditions set forth in this Article VIII.

SECTION 8.2. Defeasance and Discharge. The Issuer may elect, at any time, to fully discharge all or any specified portion of the Issuer's and the Guarantors' obligations, and the Issuer will be deemed to have paid and discharged the entire Indebtedness represented by the Notes or, at the Issuer's option, any specified payment obligation and to have satisfied all of the

Issuer's and the Guarantors' other obligations under the Notes, the Note Guarantees, this Indenture and the Security Documents insofar as the Notes are concerned (and all Note Guarantees, and Liens on the Collateral securing the Notes and the Note Guarantees, shall be released and terminated) (and the Trustee and the Collateral Trustee, as applicable, at the expense of the Issuer, shall execute instruments as reasonably requested by the Issuer acknowledging the same) ("Defeasance"), subject to the following which will survive until otherwise terminated or discharged under this Indenture:

- (a) the rights of Holders of outstanding Notes to receive payments in respect of all or any defeased portion of the principal of and any premium and/or interest on the Notes when payments are due;
- (b) the Issuer's obligations under Sections 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9 and 3.2;
- (c) the rights, powers, trusts, duties and immunities of the Trustee hereunder; and
- (d) this Article VIII.

Subject to compliance with this Section 8.2, the Issuer may exercise its option under this Section 8.2 notwithstanding the prior exercise of their option under Section 8.3.

SECTION 8.3. Conditions to Defeasance. In order to exercise Defeasance under this Section 8.3:

(a) the Issuer shall have irrevocably deposited or caused or directed to be irrevocably deposited with the Trustee as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to, the benefit of the Holders of the Notes, (A) money in an amount, or (B) U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, money in an amount, or (C) a combination thereof, in each case sufficient to pay and discharge, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certificate delivered to the Trustee, without consideration of any reinvestment, and which shall be applied by the Trustee to pay and discharge, all or any specific portion of the principal of and any premium and interest on the Notes on the respective interest payment date and/or stated maturities, in accordance with the terms of this Indenture and the Notes;

(b) the Issuer shall have advised the Trustee in writing of the payment or payments of the Notes to which such deposit is to be applied;

- (c) the Issuer shall have delivered to the Trustee an opinion of counsel reasonably acceptable to the Trustee stating that,
 - (i) the Issuer has received from, or there has been published by, the U.S. Internal Revenue Service a ruling, or
 - (ii) since the date of the Indenture, there has been a change in the applicable U.S. federal income tax law,

in either case to the effect that, and based thereon such opinion of counsel shall confirm that, subject to customary assumptions and exclusions, the Holders or beneficial owners of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes, as applicable, as a result of such Defeasance, and will be subject to U.S. federal income Tax on the same amounts, in the same manner and at the same times as would have been the case if such Defeasance had not occurred;

(d) such Defeasance shall not result in the trust arising from any such deposit constituting an investment company within the meaning of the Investment Company Act, unless such trust shall be registered under the Investment Company Act or exempt from registration thereunder; and

(e) an Officer's Certificate and an Opinion of Counsel (which opinion of counsel may be subject to customary assumptions and exclusions), each stating that all conditions precedent provided for or relating to legal defeasance or covenant defeasance, as the case may be, have been complied with

Upon compliance with the foregoing, the Trustee shall execute instrument(s) as reasonably requested by the Issuer acknowledging the Defeasance of all of the Issuer's and the Guarantors' obligations under the Notes. Such Defeasance shall be effective on and after the date that the conditions set forth in clauses (a) through (e) above are satisfied.

SECTION 8.4. Deposited Money and U.S. Government Obligations to be Held in Trust; Other Miscellaneous Provisions.

The Trustee shall, subject to the provisions of this Indenture, hold in trust any money and U.S. Government Obligations deposited with the Trustee pursuant to Section 8.3, and any money received by the Trustee as payment of principal or interest in respect of such U.S. Government Obligations, and shall apply all money, in accordance with the provisions of the Notes and this Indenture, to the payment, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such deposit (including any money to be received by the Trustee as principal or interest in respect of such U.S. Government

Obligations) was made with the Trustee; *provided, however*, that, if the Trustee shall at any time hold in trust pursuant to this Section 8.4, as a result of a deposit made pursuant to this Article VIII, any money in excess of the amount required to make the payments to which such deposit (including any money to be received by the Trustee as principal or interest in respect of any U.S. Government Obligations included within such deposit) was to be applied, the Trustee shall, upon the Issuer's request, pay to the Issuer such excess money.

The Issuer shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or U.S. Government Obligations deposited pursuant to Section 8.3 or the principal and interest received in respect thereof, other than any such tax, fee or other charge which by law is for the account of the Holders of outstanding Notes.

SECTION 8.5. Repayment to the Issuer. Subject to applicable escheatment laws, any money deposited with the Trustee or any Paying Agent, or then held by the Issuer, in trust for the payment of the principal of (and premium, if any) or interest on any Note and remaining unclaimed for two years after such principal (and premium, if any) or interest has become due and payable shall be paid to the Issuer, or (if then held by the Issuer) shall be discharged from such trust; and the Holder of such Note will thereafter, as an unsecured general creditor, be permitted to look only to the Issuer for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustee thereof, shall thereupon cease.

SECTION 8.6. Reinstatement. If the Trustee or Paying Agent is unable to apply any money in accordance with this Article VIII with respect to any Notes by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's and the Guarantors' obligations under this Indenture and the Notes from which the Issuer and the Guarantors' have been discharged or released pursuant to Section 8.2 shall be revived and reinstated as though no deposit had occurred pursuant to this Article VIII with respect to such Notes, until such time as the Trustee or Paying Agent is permitted to apply all money held in trust pursuant to Section 8.4 with respect to such Notes in accordance with this Article VIII; *provided, however*, that if the Issuer or any Guarantor makes any payment of principal of, or any premium or interest on, any such Note following the reinstatement of their obligations, the Issuer or such Guarantor shall be subrogated to the rights (if any) of the Holders of such Notes to receive such payment from the money so held in trust by the Trustee or Paying Agent.

Article IX.

AMENDMENTS

SECTION 9.1. Without Consent of Holders. Notwithstanding Section 9.2 of this Indenture, the Issuer and the Trustee (together with any other party whose consent is required pursuant to the Collateral Trust Agreement or the Security Documents) may amend, supplement or otherwise modify the Note Documents without the consent of any Holder (and, upon request from the Issuer, the Trustee shall request that the Collateral Trustee enter into any such amendment, supplement or other modification to the applicable Collateral Trust Agreement or Security Documents) to:

- (i) cure any ambiguity, omission, mistake, defect, error or inconsistency;
- (ii) provide for the assumption by a successor Person of the obligations of the Issuer or any Guarantor under any Note Document;
- (iii) provide for uncertificated Notes in addition to or in place of certificated Notes (*provided*, that any uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Internal Revenue Code);
- (iv) add to the covenants or provide for a Note Guarantee for the benefit of the Holders or surrender any right or power conferred upon the Issuer or any Subsidiary;
- (v) make any change that does not adversely affect in any material respect the rights of any Holder;
- (vi) at the Issuer's election, comply with any requirement of the SEC in connection with the qualification of this Indenture under the TIA, if such qualification is required;
- (vii) make such provisions as necessary (as determined in good faith by the Issuer) for the issuance of Additional Notes;
- (viii) provide for any Subsidiary of the Issuer or any other Person to provide a Note Guarantee, to add Note Guarantees with respect to the Notes, to add security to or for the benefit of the Notes, or to confirm and evidence the release, termination, discharge or retaking of any Guarantee or Lien with respect to or securing the Notes when such release, termination, discharge or retaking is provided for under this Indenture, the Security Documents or the Collateral Trust Agreement, as applicable;

(ix) evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee or Collateral Trustee pursuant to the requirements hereof, or to provide for the accession by the Trustee or the Collateral Trustee to any Note Document or evidence and provide for the acceptance and appointment under any Collateral Trust Agreement or Security Document of a successor party thereto pursuant to the requirements thereof;

(x) make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes as permitted by this Indenture, including to facilitate the issuance and administration of Notes; *provided, however*, that (i) compliance with this Indenture as so amended would not result in Notes being transferred in violation of the Securities Act or any other applicable securities law, and (ii) such amendment does not adversely affect the rights of Holders to transfer Notes in any material respect;

(xi) mortgage, pledge, hypothecate or grant any other Lien in favor of the Collateral Trustee for its benefit and the benefit of the Trustee, the Holders of the Notes and the holders of any other Parity Lien Secured Obligations, as additional security for the payment and performance of all or any portion of the Parity Lien Secured Obligations, in any property or assets, including any which are required to be mortgaged, pledged or hypothecated, or in which a Lien is required to be granted to or for the benefit of the Trustee or the Collateral Trustee pursuant to this Indenture, any of the Collateral Trust Agreement, the Security Documents or otherwise;

(xii) provide for the release of Collateral from the Lien, or the subordination of such Lien, pursuant to this Indenture, the Security Documents and the Collateral Trust Agreement when permitted or required by the Security Documents, this Indenture and/or the Collateral Trust Agreement;

(xiii) (i) secure any Parity Lien Debt or Parity Lean Indebtedness or Term Loan/Notes Secured Obligations to the extent permitted under this Indenture, the Security Documents and the Collateral Trust Agreement, (ii) join any party to any Collateral Trust Agreement to the extent permitted or required by the terms thereof or by the terms of this Indenture or any other Parity Lien Document, or (iv) supplement any schedules to any Security Document to the extent permitted or required by the terms thereof or by the terms of this Indenture or any other Parity Lien Document;

(xiv) comply with the rules of any applicable securities depository; or

(xv) conform the text of this Indenture, any Note Guarantee, the Notes or any other Note Document to any provision of the "Description of Notes" section of the Offering Memorandum as evidenced by an Officer's Certificate.

SECTION 9.2. With Consent of Holders.

(a) Except as provided in Section 9.1 and Section 9.2(b), the Issuer and the Trustee may amend, supplement or otherwise modify the Note Documents (and, in the case of any Security Document or Collateral Trust Agreement, upon a written request from the Issuer, the Trustee shall request that the Collateral Trustee enter into any such amendment, supplement or other modification), with the consent of the Holders of a majority in aggregate principal amount of the Notes then outstanding and issued under this Indenture (including consents obtained in connection with a purchase of or tender offer for such Notes) (in addition to any other consents required under the terms of the Collateral Trust Agreement or the Security Documents from the parties thereto), and any Default or Event of Default thereunder or compliance with any provision of the Note Documents may be waived with the consent of the Holders of a majority in aggregate principal amount of the Notes then outstanding (including consents obtained in connection with a purchase of or tender offer for such Notes).

(b) Without the consent of each Holder of Notes affected, an amendment, supplement or waiver may not, with respect to any such Notes held by a non-consenting Holder:

(i) reduce the principal amount of such Notes whose Holders must consent to an amendment;

(ii) reduce the stated rate of or extend the stated time for payment of interest on any such Note;

(iii) amend, change or modify in any material respect the obligation of the Issuer to make and consummate a Change of Control Offer after the occurrence of a Change of Control;

(iv) reduce the principal of, or extend the Stated Maturity of, any such Note;

(v) reduce the premium payable upon the redemption of any such Note or change the time at which any such Note may be redeemed to an earlier time, in each case as set forth in Section 5.7; *provided that* this Section 9.2 shall not apply to changes to any requirements to give notice by a certain time;

(vi) make any such Note payable in currency other than that stated in such Note;

(vii) make any change in the contractual right expressly set forth in this Indenture of any Holder to receive payment of principal of and interest on such Holder's Notes on or after the due dates therefor, or to institute suit for the enforcement of any such payment on or with respect to such Holder's Notes;

(viii) waive a Default or Event of Default with respect to the nonpayment of principal, premium, if any, or interest (except pursuant to a rescission of acceleration of the Notes by the Holders of a majority in aggregate principal amount of such Notes and a waiver of the payment default that resulted from such acceleration); or

(ix) make any change in the amendment or waiver provisions which require the Holders' consent described in clauses (i) – (viii) above.

In addition, without the consent of the Holders of at least two-thirds in aggregate principal amount of the Notes then outstanding, no amendment or waiver may release all or substantially all of the Collateral from the Lien of this Indenture and the Security Documents with respect to the Notes (other than in accordance with the terms of the Security Documents and Collateral Trust Agreement as in effect on the Issue Date or as otherwise provided in Section 12.2).

It shall not be necessary for the consent of the Holders under this Indenture to approve the particular form of any proposed amendment of any Note Document, but it shall be sufficient if such consent approves the substance thereof. A consent to any amendment under this Indenture by any Holder of Notes given in connection with a tender or other purchase of such Holder's Notes will not be rendered invalid by such tender or other purchase.

SECTION 9.3. [Reserved].

SECTION 9.4. Revocation and Effect of Consents and Waivers. Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent or waiver is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent or waiver as to such Holder's Note or portion of its Note if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms, and thereafter binds every Holder.

The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to give their consent or take any other action described in this Section 9.4, or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then notwithstanding the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date.

SECTION 9.5. Notation on or Exchange of Notes. The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Issuer in exchange for all Notes may issue and the Trustee shall, upon receipt of an Issuer Order, authenticate new Notes that reflect the amendment, supplement or waiver. Failure to make the appropriate notation or issue a new Note will not affect the validity and effect of such amendment, supplement or waiver.

SECTION 9.6. Trustee to Sign Amendments. Upon the request of the Issuer, and upon the filing with the Trustee of evidence of the consent of the required Holders of Notes as aforesaid in Section 9.2, if such consent of the Holders of Notes is required, and upon receipt by the Trustee of the documents described in this Section 9.6 and Section 13.3, the Trustee shall join (or, if applicable and requested in writing by the Issuer in the case of any amendment, supplement or other modification to any Collateral Trust Agreement or Security Document, request that the Collateral Trustee join) with the Issuer and the Guarantors, if applicable, in the execution of any amended or supplemental indenture or amendment, supplement or other modification to any Note Document unless such amended or supplemental indenture or amendment or supplement to any Note Document adversely affects the Trustee's own rights, duties or immunities under any Note Document or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amended or supplemental indenture or amendment, supplement or other modification to any Note Document. After an amendment or supplement under Section 9.1 or 9.2, as applicable, becomes effective, the Issuer shall mail to Holders a notice briefly describing such amendment or supplement. The failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of an amendment or supplement under Section 9.1 or 9.2, as applicable. In executing any amended or supplemental indenture, the Trustee shall receive and (subject to Sections 7.1 and 7.2) shall be fully protected in conclusively relying upon, in addition to the documents required by Section 13.3, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture, and is valid, binding and enforceable against the Issuer or any Guarantor, as the case may be, in accordance with its terms. In requesting that the Collateral Trustee join in executing any amendment or supplement to any Note Document, the Trustee shall receive and (subject to Sections 7.1 and 7.2) shall be fully protected in conclusively relying upon, such certificates as are required by Section 2.04 of the Collateral Trust Agreement

GUARANTEE

SECTION 10.1. Guarantee. Subject to the provisions of this Article X, each Guarantor hereby fully, unconditionally and irrevocably guarantees (the “Note Guarantees”), as primary obligor and not merely as surety, jointly and severally with each other Guarantor, to each Holder of the Notes, the Trustee and the Collateral Trustee the full and punctual payment when due, whether at maturity, by acceleration, by redemption or otherwise, of the principal of, premium, if any, and interest on the Notes, fees, expenses, indemnities and all other Obligations and liabilities of the Issuer under this Indenture (including without limitation interest accruing after the filing of any petition or application in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Issuer or any Guarantor whether or not a claim for post-filing or post-petition interest is allowed in such proceeding and the obligations under Section 7.7) (all the foregoing being hereinafter collectively called the “Guaranteed Obligations”).

To evidence its Note Guarantee set forth in this Section 10.1, each Guarantor hereby agrees that this Indenture shall be executed on behalf of such Guarantor by an Officer of such Guarantor.

Each Guarantor hereby agrees that its Note Guarantee set forth in this Section 10.1 shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.

If an Officer whose signature is on this Indenture no longer holds that office at the time the Trustee authenticates the Note, the Note Guarantee shall be valid nevertheless.

Each Guarantor further agrees (to the extent permitted by law) that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from it, and that it will remain bound under this Article X notwithstanding any extension or renewal of any Guaranteed Obligation.

Each Guarantor waives presentation to, demand of payment from and protest to the Issuer of any of the Guaranteed Obligations, and also waives notice of protest for nonpayment. Each Guarantor waives notice of any default under the Notes or the Guaranteed Obligations.

Each Guarantor further agrees that its Note Guarantee herein constitutes a Guarantee of payment when due (and not a Guarantee of collection) and waives any right to require that any resort be had by any Holder to any security held for payment of the Guaranteed Obligations.

Except as set forth in Section 10.2, the obligations of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason (other than payment of the Guaranteed Obligations in full), including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever, or by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or otherwise. Without limiting the generality of the foregoing, the Guaranteed Obligations of each Guarantor herein shall not be discharged or impaired, or otherwise affected by (a) the failure of any Holder to assert any claim or demand or to enforce any right or remedy against the Issuer or any other person under this Indenture, the Notes or any other agreement or otherwise; (b) any extension or renewal of any thereof; (c) subject to Section 9.2, any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Notes or any other agreement; (d) subject to Section 10.2(b), the release of any security held by any Holder for the Guaranteed Obligations; (e) the failure of any Holder to exercise any right or remedy against any other Guarantor; (f) any change in the ownership of the Issuer; (g) any default, failure or delay, willful or otherwise, in the performance of the Guaranteed Obligations; or (h) any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of any Guarantor or would otherwise operate as a discharge of such Guarantor as a matter of law or equity.

Each Guarantor agrees that its Note Guarantee herein shall remain in full force and effect until payment in full of all the Guaranteed Obligations or such Guarantor is released from its Note Guarantee in compliance with Section 10.2, Article VIII or Article XI. Each Guarantor further agrees that its Note Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of, premium, if any, or interest, if any, on any of the Guaranteed Obligations is rescinded or must otherwise be restored by any Holder upon the bankruptcy, insolvency or reorganization of the Issuer or otherwise.

In furtherance of the foregoing and not in limitation of any other right which any Holder has at law or in equity against any Guarantor by virtue hereof, upon the failure of the Issuer to pay any of the Guaranteed Obligations when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, each Guarantor hereby promises to and will, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Trustee on behalf of itself, the Holders and the Collateral Trustee an amount equal to the sum of (i) the unpaid amount of such Guaranteed Obligations then due and owing, and (ii) accrued and unpaid interest, if any, on such Guaranteed Obligations then due and owing (but only to the

extent not prohibited by law) (including interest accruing after the filing of any petition or application in bankruptcy or the commencement of any insolvency, reorganization or like proceeding relating to the Issuer or any Guarantor whether or not a claim for post-filing or post-petition interest is allowed in such proceeding).

Each Guarantor further agrees that, as between such Guarantor, on the one hand, and the Holders, on the other hand, (x) the maturity of the Guaranteed Obligations guaranteed hereby may be accelerated as provided in this Indenture for the purposes of its Note Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations guaranteed hereby, and (y) in the event of any such declaration of acceleration of such Guaranteed Obligations, such Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantor for the purposes of the Note Guarantee.

Each Guarantor also agrees to pay any and all fees, costs and expenses (including attorneys' fees and expenses) incurred by the Trustee, the Collateral Trustee or the Holders in enforcing any rights under this Section 10.1.

SECTION 10.2. Limitation on Liability; Termination, Release and Discharge.

(a) Any term or provision of this Indenture to the contrary notwithstanding, the obligations of each Guarantor under its Note Guarantee will be limited to the maximum amount that would, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Note Guarantee or pursuant to its contribution obligations under this Indenture, not render the obligations of such Guarantor under its Note Guarantee subject to avoidance under applicable law as a fraudulent conveyance, fraudulent transfer or unjust preference, including provisions of the Bankruptcy Code.

(b) Any Note Guarantee of a Guarantor shall be released:

(i) upon the consummation of any transaction not prohibited by this Indenture (including by way of sale, disposition or other transfer of Equity Interests of such Guarantor or merger, consolidation, liquidation or dissolution) that results in such Guarantor ceasing to be a Subsidiary of the Issuer;

(ii) except for a Subsidiary that continues to Guarantee any other then outstanding Series of Parity Lien Obligations, in connection with any sale, disposition or other transfer of all or substantially all of the assets of such Guarantor (including by way of merger or consolidation), if the sale, disposition or other transfer is made in compliance with this Indenture;

(iii) upon the release of the Guarantee by such Subsidiary of the Revolving Credit Facility and each other then outstanding Series of Parity Lien Secured Obligations and of that Guarantor (other than with respect to PropCo and other in connection with a repayment in full of such other Series of Priority Secured Obligations); and

(iv) upon payment in full of the principal of, and accrued and unpaid interest and premium, if any, on, the Notes; In addition to the foregoing, the Note Guarantees of all Guarantors will be released upon a Defeasance of this Indenture in accordance with Article VIII or Satisfaction and Discharge of this Indenture in accordance with Article XI.

SECTION 10.3. Right of Contribution. Each Guarantor hereby agrees that to the extent that any Guarantor shall have paid more than its proportionate share of any payment made on the obligations under its Note Guarantee, such Guarantor shall be entitled to seek and receive contribution from and against the Issuer or any other Guarantor who has not paid its proportionate share of such payment. The provisions of this Section 10.3 shall, in no respect, limit the obligations and liabilities of each Guarantor to the Trustee and the Holders, and each Guarantor shall remain liable to the Trustee and the Holders for the full amount guaranteed by such Guarantor hereunder.

SECTION 10.4. No Subrogation. Notwithstanding any payment or payments made by each Guarantor hereunder, no Guarantor shall be entitled to be subrogated to any of the rights of the Trustee or any Holder against the Issuer or any other Guarantor or any collateral security or guarantee or right of offset held by the Trustee or any Holder for the payment of the Guaranteed Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from the Issuer or any other Guarantor in respect of payments made by such Guarantor hereunder, until all amounts owing to the Trustee and the Holders by the Issuer on account of the Guaranteed Obligations are paid in full. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all of the Guaranteed Obligations shall not have been paid in full, such amount shall be held by such Guarantor in trust for the Trustee and the Holders, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Trustee in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Trustee, if required), to be applied against the Guaranteed Obligations.

Article XI.

SATISFACTION AND DISCHARGE

SECTION 11.1. Satisfaction and Discharge. This Indenture (including the Notes and the Note Guarantees) will cease to be of further effect as to the Notes (this being referred to herein as “Satisfaction and Discharge”) (except as to any surviving rights of registration of transfer of Notes expressly provided for in this Indenture and any rights to receive payments of interest on the Notes and rights of the Trustee to compensation, reimbursement and indemnification and the Issuer’s obligations with respect thereto expressly provided for herein) and all Note Guarantees, and all Liens on the Collateral securing the Notes and the Note Guarantees, will be released and terminated, and the Trustee, on demand of and at the Issuer’s expense, will execute instruments as reasonably requested by the Issuer acknowledging Satisfaction and Discharge, when:

(a) either:

(i) all Notes that have been authenticated and delivered (other than (A) Notes which have been destroyed, lost or stolen and which have been replaced or paid, and (B) Notes for whose payment money has been either deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust or paid to any State or the District of Columbia pursuant to its unclaimed property or similar laws) have been delivered to the Trustee for cancellation; or

(ii) all Notes that have not been so delivered to the Trustee for cancellation (A) have become due and payable, (B) will become due and payable at their Stated Maturity within one year, or (C) are to be called for redemption within one year under arrangements reasonably satisfactory to the Trustee for the giving of the notice of redemption by the Trustee in the name, and at the expense, of the Issuer, and the Issuer has irrevocably deposited or caused or directed to be irrevocably deposited with the Trustee, as trust funds in trust for this purpose, (i) money in an amount, or (ii) U.S. Government Obligations which through the scheduled payment of principal and interest in respect thereof in accordance with their terms will provide, not later than one day before the due date of any payment, money in an amount, or (iii) a combination thereof, in each case sufficient to pay and discharge, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certificate delivered to the Trustee, without consideration of any reinvestment, and which shall be applied by the Trustee to pay and discharge, the entire Indebtedness on the Notes not delivered to the Trustee for cancellation, for principal, premium, if any, and accrued and unpaid interest, if any, to, but not including, the date of such deposit (in the case of Notes that have become due and payable) or maturity or redemption, as the case may be;

(b) the Issuer has paid or caused to be paid all other sums payable by the Issuer under this Indenture; and;

(c) the Issuer has delivered to the Trustee an Officer’s Certificate and an Opinion of Counsel each stating that all conditions precedent in this Indenture relating to the Satisfaction and Discharge have been complied with.

Upon compliance with the foregoing, the Trustee shall execute such instrument(s) as reasonably requested by the Issuer acknowledging the Satisfaction and Discharge of all of the Issuer’s and the Guarantors’ obligations under the Notes, subject to such provisions that shall survive pursuant to the terms of this Indenture.

Notwithstanding the Satisfaction and Discharge, the obligations of the Issuer and the Guarantors to the Trustee and, if money has been deposited with the Trustee pursuant to Section 11.1(a)(ii), the obligations of the Trustee under Section 8.5, this Section 11.1 and Section 11.2 shall survive.

SECTION 11.2. Application of Trust Money. Subject to the provisions of Section 8.5, all money deposited with the Trustee pursuant to Section 11.1 shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal, premium, if any, and interest for the payment of which such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with Section 11.1 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer’s and the Guarantors’ obligations under this Indenture, the Notes and the Note Guarantees shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.1 until such time as the Trustee or Paying Agent is permitted to apply all such money or U.S. Government Obligations in accordance with Section 11.1; *provided* that if the Issuer has made any payment of principal of, premium, if any, or interest on, any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or U.S. Government Obligations held by the Trustee or Paying Agent.

Article XII.

COLLATERAL AND SECURITY

SECTION 12.1. Security. The obligations of the Issuer with respect to the Notes, the obligations of PropCo under its Note Guarantee, all other Parity Lien Obligations and the performance of all other obligations of the Issuer, the Guarantors and the Issuer's other Subsidiaries under the Parity Lien Documents will be secured equally and ratably by first-priority Liens in the Collateral granted to the Collateral Trustee for the benefit of the Parity Lien Secured Parties.

(a) Each of the Issuer and PropCo shall use their commercially reasonable efforts (i) to transfer the Designated Real Estate Assets to PropCo, and (ii) to perfect all security interests in the Collateral, in each case on or after the Issue Date.

(b) In the event a fully executed and notarized Deed and/or Mortgage has not been delivered by PropCo and recorded with respect to each Designated Real Estate Asset, or all actions necessary to perfect a security interest in other Collateral in favor of Collateral Trustee have not been completed, in each case, on or prior to the Issue Date (other than the pledge and perfection of the security interest in all equity interests of PropCo, which must in all events be completed on the Issue Date), the Issuer shall use commercially reasonable efforts to deliver to the Collateral Trustee within 180 days of the date of this Indenture, as such date may be extended to the extent any such actions cannot be completed within such timeframe as a result of the occurrence of the COVID-19 pandemic (including without limitation, as a result of any notary services being unavailable) after the use of commercially reasonable efforts to do so or without undue burden or expense or risk to human health, with respect to each Designated Real Estate Asset the following:

(i) a fully executed and notarized Deed transferring the fee interest of such Designated Real Estate Asset to PropCo and any associated transfer forms required therewith;

(ii) a fully executed and notarized Mortgage encumbering the fee interest of PropCo in such Designated Real Estate Asset, together with such UCC-1 financing statements and other fixture filings as the Collateral Trustee shall reasonably deem appropriate with respect to such Designated Real Estate Asset; and

(iii) evidence that counterparts of the Deed and Mortgage (and such other documents referenced in clause (ii) of this Section 12.1(b)) for such Designated Real Estate Asset have been filed or recorded (or have been delivered to the title insurance company and are in form suitable for filing or recording) in all filing or recording offices that the Collateral Trustee may deem reasonably necessary or desirable in order to create and perfect a valid and subsisting Lien on the property described therein in favor of the Collateral Trustee.

(c) Issuer shall use commercially reasonable efforts to deliver to the Collateral Trustee within 180 days of the date of this Indenture, as such date may be extended to the extent any such actions cannot be completed within such timeframe as a result of the occurrence of the COVID-19 pandemic (including without limitation, as a result of any notary services being unavailable) after the use of commercially reasonable efforts to do so or without undue burden or expense or risk to human health, with respect to each Designated Real Estate Asset the following:

(i) one or more additional Deeds or corrective Deeds with respect to such Designated Real Estate Asset in form and substance reasonably satisfactory to Collateral Trustee in order to properly transfer to PropCo the fee interest in the entirety of such Designated Real Estate Asset owned by Issuer immediately prior to the consummation of the transactions contemplated by this Indenture;

(ii) any amendment or amendment and restatement of any Mortgage previously delivered by PropCo to Collateral Trustee with respect to such Designated Real Estate Asset in form and substance reasonably satisfactory to Collateral Trustee in order to correct or modify the legal description contained therein, add or modify law provisions, make such other modifications reasonably requested by Collateral Trustee to correct any errors contained therein or as otherwise necessary for the Title Company to issue the title insurance for such Designated Real Estate Asset referenced in clause (iii) below;

(iii) a fully paid policy of title insurance for such Designated Real Estate Asset which (A) upon the recording of the respective Mortgage, will insure the Mortgage to be a valid and subsisting Lien on such Designated Real Estate Asset described therein, free and clear of all Liens, except Permitted Encumbrances, (B) shall be in a form and issued by a reputable title company (the "Title Company"), (C) shall be in an amount at least equal to the fair market value of such Designated Real Estate Asset as reasonably determined by the Issuer and/or PropCo, and (D) include such customary and commercially reasonable endorsements or affirmative insurance as customary, and Issuer and PropCo shall deliver to the Title Company such affidavits and indemnities as shall be reasonably required to induce the Title Company to issue the policy or policies contemplated by this clause (iii);

(iv) an American Land Title Association/National Society of Professional Surveyors (ALTA/NSPS) form of survey by a duly registered and licensed land surveyor for which all necessary fees have been paid by Issuer or PropCo dated a date reasonably satisfactory, certified to the Collateral Trustee and the Title Company in a manner reasonably satisfactory to the Title Company;

(v) a zoning compliance report for which all necessary fees have been paid by Issuer or Propco, which includes a current zoning verification letter from the applicable municipality, copies of all certificates of occupancy for such Designated Real Estate Asset and confirms that there are no open building, zoning, fire code or other violations with respect to such Designated Real Estate Asset and that such Designated Real Estate Asset is in conformance with all applicable zoning laws; and

(vi) to the extent not delivered on the Issue Date in connection with the respective Mortgages referenced in Section 12(a) above and/or to the extent requested by Collateral Agent in connection with any such amendment or amendment and restatement of any Mortgage previously delivered by PropCo referenced in Section 12(c)(ii) above, a written opinion from local counsel in the state in which such Designated Real Estate Asset is located with respect to the enforceability of the applicable Mortgage and such amendment or amendment and restatement, as applicable, and the creation and perfection of Liens created by such Mortgage and such amendment or amendment and restatement, as applicable, and any related fixture filings, in customary form and substance and subject to customary assumptions, limitations and qualifications, reasonably satisfactory to the Collateral Trustee; and

(vii) evidence of payment by Issuer or PropCo of all local counsel fees, title insurance premiums, search and examination charges, transfer, deed, mortgage, filing, recording and other taxes, fees and related charges required for the recordation of the Deeds and Mortgages and issuance of the title insurance policies referenced in clause (iii) above.

(d) For the avoidance of doubt, it will not be a default, Default or Event of Default, if PropCo has not delivered to the Collateral Trustee the items set forth in clauses (b) or (c) of this Section 12.1 with respect to any Mortgaged Property within 180 days of the date of this Indenture, subject to extension as described above, as a result of the occurrence of the COVID-19 pandemic (including without limitation, as a result of any notary services being unavailable) provided that Issuer and PropCo have used commercially reasonable efforts to provide such items.

(e) Concurrent with any Asset Disposition with respect to any Designated Real Estate Asset permitted pursuant to Section 3.5 of this Indenture for which some or all of the Net Available Cash is being used to acquire Real Estate Assets pursuant to Section 3.5(a)(iii)(B) or (C) of this Indenture, PropCo shall designate such to be acquired Real Estate Assets to be mortgaged pursuant to this Section 12.1 (each, a “Substitute Designated Real Estate Asset”), and PropCo shall use commercially reasonable efforts to execute and deliver to the Collateral Trustee within 90 days after Asset Disposition, as such date may be adjusted to the extent any such actions are not or cannot be completed within such timeframe as a result of the occurrence of the COVID-19 pandemic (including without limitation, as a result of any notary services being unavailable) after the use of commercially reasonable efforts to do so or without undue burden or expense or risk to human health, a Mortgage, the other items set forth in clauses (b) and (c) of this Section 12.1 relating to such Substitute Designated Real Estate Asset, mutatis mutandis, a representation that PropCo has conducted customary environmental due diligence with respect to such Substitute Designated Real Estate Asset and that it is not aware of any environmental liabilities affecting such Substitute Designated Real Estate Asset, and such other items as the Collateral Trustee shall reasonably request, and thereupon such Substitute Designated Real Estate Asset shall constitute Collateral and be a Designated Real Estate Asset for all purposes of this Indenture.

SECTION 12.2. Collateral Trust Agreement. The Holders of the Notes have, and by accepting a Note, each Holder will be deemed to have, appointed the Collateral Trustee to act as its agent under the Collateral Trust Agreement and the Security Documents. The Holders of the Notes have, and by accepting a Note, each Holder will be deemed to have, authorized the Collateral Trustee to (i) perform the duties and exercise the rights, powers and discretions that are specifically given to it under the Collateral Trust Agreement and the Security Documents, together with any other incidental rights, power and discretions; and (ii) execute each Security Document, waiver, modification, amendment, renewal or replacement expressed to be executed by the Collateral Trustee on its behalf.

SECTION 12.3. Release of Liens in Respect of Notes.

The Collateral Trustee’s Parity Liens upon the Collateral shall no longer secure the Notes outstanding under this Indenture or any other Obligations under this Indenture, and the right of the holders of the Notes and such Obligations to the benefits and proceeds of the Collateral Trustee’s Parity Liens on the Collateral will terminate and be discharged:

- (a) upon satisfaction and discharge of this Indenture pursuant to Section 11.1 of this Indenture;
- (b) upon a Legal Defeasance or Covenant Defeasance of the Notes pursuant to Sections 8.2 and 8.3 of this Indenture;
- (c) upon payment in full and discharge of all Notes outstanding under this Indenture and all Obligations that are outstanding, due and payable under this Indenture at the time the Notes are paid in full and discharged; or
- (d) in whole or in part, with the consent of the holders of the requisite percentage of Notes in accordance with the provisions pursuant to Article IX of this Indenture.

In each case, the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such release complies with this Section 12.3 and that all conditions precedent provided for in this Indenture relating to such transaction have been complied with.

SECTION 12.4. Collateral Access Agreement. On the date of this Indenture, the Collateral Trustee, on behalf of the Holders of Notes and all other Parity Lien Secured Parties, shall enter into the Collateral Access Agreement with the Issuer, the Guarantors and the Credit Agreement Agent to provide that in the event that, following an Event of Default, the Collateral Trustee shall obtain possession or physical control of any real estate Collateral or the collateral trustee shall sell or otherwise dispose of any real estate Collateral to any third party (each a "Third Party Purchaser"), during the applicable Access Period, the Credit Agreement Agent will have an irrevocable, non-exclusive right to have access to, and a royalty-free, rent-free right to use, such real estate Collateral for the purpose of (i) arranging for and effecting the sale or disposition of any Credit Agreement Collateral, including the packaging and other preparation of such Credit Agreement Collateral for sale or disposition; (ii) selling the Credit Agreement Collateral (by public auction, private sale, a "store closing," "going out of business" sale or other sale, whether in bulk, in lots or to customers in the ordinary course of business or otherwise and which sale may include augmented Inventory of the same type sold in the Issuer's or any Guarantor's business); (iii) storing or otherwise dealing with the Credit Agreement Collateral; or (iv) taking any action necessary to complete the packaging, storage, sale or disposal (whether in bulk, in lots or to customers in the ordinary course of business or otherwise), transportation or shipping and/or removal of, in any lawful manner inventory or any other item of Credit Agreement Collateral, in each case, without the involvement of or interference by the collateral trustee or any other Parity Lien Secured Party or liability to the collateral trustee or any other Parity Lien Secured Party.

SECTION 12.5. Relative Rights.

Nothing in the Note Documents will:

- (a) impair, as to the Issuer and the holders of the Notes, the obligation of the Issuer to pay principal of, premium and interest and liquidated damages, if any, on the Notes in accordance with their terms or any other obligation of the Issuer or any Guarantor;
- (b) affect the relative rights of holders of Notes as against any other creditors of the Issuer or any Guarantor (other than holders of other Parity Liens);
- (c) restrict the right of any holder of Notes to sue for payments that are then due and owing (but not enforce any judgment in respect thereof against any Collateral);
- (d) restrict or prevent any holder of Notes or other Parity Lien Obligations, the Collateral Trustee or any Parity Lien Representative from exercising any of its rights or remedies upon a Default or Event of Default; or
- (e) restrict or prevent any holder of Notes or other Parity Lien Obligations, the Collateral Trustee or any Parity Lien Representative from taking any lawful action in an Insolvency or Liquidation Proceeding.

SECTION 12.6. Further Assurances; Maintenance of Properties; Compliance with Laws; Insurance.

The Issuer and each of the Guarantors shall undertake, or cause to be undertaken, all acts and things that may be required, or that the Collateral Trustee from time to time may reasonably request, to assure and confirm that the Collateral Trustee holds, for the benefit of the Parity Lien Secured Parties, duly created and enforceable and perfected Liens upon the Collateral (including any property or assets that are acquired or otherwise become, or are required by any Parity Lien Debt Document to become, Collateral after the Notes are issued), in each case, as contemplated by, and with the Lien priority required under, the Parity Lien Debt Documents.

Upon the reasonable request of the Collateral Trustee or any Parity Lien Debt Representative at any time and from time to time, the Issuer and each of the Guarantors shall promptly execute, acknowledge and deliver such Security Documents, instruments, certificates, notices and other documents, and take such other actions as may be reasonably required, or that the Collateral Trustee may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by the Parity Lien Debt Documents for the benefit of the Parity Lien Secured Parties.

The Issuer and the Guarantors shall:

- (a) keep their properties adequately insured at all times by financially sound and reputable insurers;
- (b) maintain such other insurance, to such extent and against such risks (and with such deductibles, retentions and exclusions), including fire and other risks insured against by extended coverage and coverage for acts of terrorism, as is customary with companies in the same or similar businesses operating in the same or similar locations, including public liability

insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by them;

(c) maintain such other insurance as may be required by law;

(d) maintain title insurance on all real property Collateral insuring the Collateral Trustee's Lien on that property, subject only to exceptions to title approved by the Collateral Trustee; and

(e) maintain such other insurance as may be required by the Security Documents.

The Issuer and the Guarantors shall furnish to the Collateral Trustee full information as to their property and liability insurance carriers. Holders of Parity Lien Obligations, as a class, shall be named as additional insureds, with a waiver of subrogation, on all insurance policies of the Issuer and the Guarantors and the Collateral Trustee shall be named as loss payee, with 30 days' notice of cancellation or material change, on all property and casualty insurance policies of the Issuer and the Guarantors.

Article XIII.

MISCELLANEOUS

SECTION 13.1. Notices. Any notice or communication to the Issuer or the Trustee shall be sufficiently given if written and (a) delivered in person or (b) mailed by first class mail (certified or registered, return receipt requested) or (c) sent by facsimile transmission, or (d) sent by overnight air courier guaranteeing next-day delivery, or (e) sent by electronic transmission, in each case addressed as follows:

if to the Issuer:

Nordstrom, Inc.
1700 7th Avenue
Seattle, Washington 98101
Facsimile No.: (206) 303-4419
Attention: Ann Munson Steines

in each case, with a copy to:

Lane Powell PC
1420 Fifth Avenue, Suite 4200
P.O. Box 91302
Seattle, Washington 98111-9402
Facsimile No.: (206) 223-7107
Attention: Michael E. Morgan

if to the Trustee, at its Corporate Trust Office::

Wells Fargo Bank, National Association
Corporate Trust Services
Corporate Debt
333 S. Grand Avenue, 5th Floor, Suite 5A
Los Angeles, California 90071
Attention: Nordstrom, Inc. Administrator

The Issuer or the Trustee, by notice to the others, may designate additional or different addresses and/or facsimile numbers for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: at the time delivered by hand, if personally delivered; three Business Days after being deposited in the mail, postage prepaid, if mailed by first class mail (certified or registered, return receipt requested); upon acknowledgment of receipt, if transmitted by facsimile; the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next-day delivery; and at the time delivered, if sent by electronic transmission.

Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or sent by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar or, with respect to Global Notes, to the extent permitted or required by the applicable procedures of DTC, sent

electronically. Failure to deliver, mail, transmit or send a notice or communication to a Holder or any defect in it will not affect its sufficiency with respect to other Holders.

If a notice or communication is delivered, mailed, transmitted or sent in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Issuer mails or sends a notice or communication to Holders, they will mail or send a copy to the Trustee and each agent at the same time.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance on such waiver.

In case it shall be impracticable to give notice in the manner provided above, including by reason of a suspension of regular mail service, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

SECTION 13.2. [Reserved].

SECTION 13.3. Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Issuer or any of the Guarantors to the Trustee to take or refrain from taking any action under this Indenture or the Notes (,), the Issuer or such Guarantor, as the case may be, shall furnish to the Trustee:

(i) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.4) stating that, in the opinion of the signatory thereto, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied or complied with, as applicable; and

(ii) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 13.4) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied or complied with, as applicable.

SECTION 13.4. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(i) a statement that each person signing such certificate or opinion has read such covenant or condition and the definitions relating thereto;

(ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(iii) a statement that, in the opinion of each such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied or complied with, as applicable; and

(iv) a statement as to whether or not, in the opinion of each such person, such covenant or condition has been satisfied or complied with, as applicable.

In giving such Opinion of Counsel, counsel may rely as to factual matters on an Officer's Certificate or on certificates of public officials.

SECTION 13.5. When Notes Disregarded. In determining whether the Holders of the required aggregate principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer, any Guarantor or any Affiliate of them shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Trust Officer of the Trustee actually knows are so owned shall be so disregarded. Also, subject to the foregoing, only Notes outstanding at the time shall be considered in any such determination.

SECTION 13.6. Rules by Trustee, Paying Agent and Registrar. The Trustee may make reasonable rules for action by, or at meetings of, Holders. The Registrar and the Paying Agent may make reasonable rules and set reasonable requirements for their functions.

SECTION 13.7. Legal Holidays. A “Legal Holiday” is a Saturday, Sunday or other day on which commercial banking institutions are authorized or required to be closed in New York, New York or the state of the place of payment. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

SECTION 13.8. Governing Law. THIS INDENTURE, THE NOTES AND THE NOTE GUARANTEES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

SECTION 13.9. Jurisdiction. The Issuer and the Guarantors agree that any suit, action or proceeding against the Issuer or any Guarantor brought by any Holder or the Trustee arising out of, or based upon, this Indenture, the Note Guarantee or the Notes may be instituted in any state or Federal court in the Borough of Manhattan, New York, New York, and any appellate court from any thereof, and each of them irrevocably submits to the non-exclusive jurisdiction of such courts in any suit, action or proceeding. The Issuer and the Guarantors irrevocably waive, to the fullest extent permitted by law, any objection to any suit, action, or proceeding that may be brought in connection with this Indenture, the Note Guarantee or the Notes, including such actions, suits or proceedings relating to securities laws of the United States of America or any state thereof, in such courts whether on the grounds of venue, residence or domicile or on the ground that any such suit, action or proceeding has been brought in an inconvenient forum. The Issuer and the Guarantors agree that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Issuer or the Guarantors, as the case may be, and may be enforced in any court to the jurisdiction of which the Issuer or the Guarantors, as the case may be, are subject by a suit upon such judgment.

SECTION 13.10. Waivers of Jury Trial. EACH OF THE ISSUER, THE GUARANTORS AND THE TRUSTEE HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE NOTE GUARANTEES AND FOR ANY COUNTERCLAIM THEREIN.

SECTION 13.11. USA PATRIOT Act. The parties hereto acknowledge that in accordance with Section 326 of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “USA PATRIOT Act”), the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as each may request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

SECTION 13.12. No Recourse Against Others. No director, officer, manager, employee, incorporator or direct or indirect partner, member or stockholder, past, present or future, of the Issuer, any Guarantor or any successor entity of any of them, as such, will have any liability for any of the obligations of the Issuer or any Guarantor under the Notes or this Indenture or any other Note Document, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

SECTION 13.13. Successors. All agreements of the Issuer and each Guarantor in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 13.14. Multiple Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of this Indenture and of signature pages by facsimile, pdf or other electronic transmission, shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile, pdf or other electronic means, shall be deemed to be their original signatures for all purposes.

SECTION 13.15. Table of Contents; Headings. The table of contents, cross-reference table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof, and shall not modify or restrict any of the terms or provisions hereof.

SECTION 13.16. Force Majeure. In no event shall the Trustee or Collateral Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God or other recognized public emergency, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services, it being understood that the Trustee and Collateral Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 13.17. Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 13.18. Appointment of Co-Trustee.

(a) Notwithstanding any other provisions of this Indenture, at any time, for the purpose of meeting any legal requirement of any jurisdiction in which any part of the trust may at the time be located, the Trustee shall have the power and may execute and deliver all instruments necessary to appoint one or more Persons to act as a co-trustee or co-trustees, or separate trustee or separate trustees, of all or any part of the trust, and to vest in such Person or Persons, in such capacity and for the benefit of the Holders, such title to the trust, or any part thereof, and subject to the other provisions of this Indenture, such powers, duties, obligations, rights and trusts as the Trustee may consider necessary or desirable. No co-trustee or separate trustee hereunder shall be required to meet the terms of eligibility as a successor trustee under this Indenture and no notice to Holders of the appointment of any co-trustee or separate trustee shall be required under this Indenture.

(b) Every separate trustee and co-trustee shall, to the extent permitted by law, be appointed and act subject to the following provisions and conditions:

(1) all rights, powers, duties and obligations conferred or imposed upon the Trustee shall be conferred or imposed upon and exercised or performed by the Trustee and such separate trustee or co-trustee jointly (it being understood that such separate trustee or co-trustee is not authorized to act separately without the Trustee joining in such act), except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed singly by such separate trustee or co-trustee, but solely at the direction of the Trustee;

(2) no trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder; and

(3) the Trustee may at any time accept the resignation of or remove any separate trustee or co-trustee.

(c) Any notice, request or other writing given to the Trustee shall be deemed to have been given to each of the then separate trustees and co-trustees, as effectively as if given to each of them. Every instrument appointing any separate trustee or co-trustee shall refer to this Indenture and the conditions of this Article VI. Each separate trustee and co-trustee, upon its acceptance of the trusts conferred, shall be vested with the estates or property specified in its instrument of appointment, either jointly with the Trustee or separately, as may be provided therein, subject to all the provisions of this Indenture, specifically including every provision of this Indenture relating to the conduct of, affecting the liability of, or affording protection or rights (including the rights to compensation, reimbursement and indemnification hereunder) to, the Trustee. Every such instrument shall be filed with the Trustee.

Any separate trustee or co-trustee may at any time constitute the Trustee, its agent or attorney-in-fact with full power and authority, to the extent not prohibited by law, to do any lawful act under or in respect of this Indenture on its behalf and in its name. If any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all of its estates, properties, rights, remedies and trusts shall vest in and be exercised by the Trustee, to the extent permitted by law, without the appointment of a new or successor trustee

[Signatures on following pages]

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed all as of the date and year first written above.

NORDSTROM, INC.

By: /s/ Anne L. Bramman

Name: Anne L. Bramman

Title: Chief Financial Officer

GUARANTORS:

NIHC, INC.

By: /s/ Andrew C. Vickers

Name: Andrew C. Vickers

Title: President

NORDSTROM CARD SERVICES, INC.

By: /s/ Sheryl Garland

Name: Sheryl Garland

Title: Secretary

TRUNK CLUB, INC.

By: /s/ Sheryl Garland

Name: Sheryl Garland

Title: Secretary

NORDSTROM REAL ESTATE HOLDINGS, LLC

By: /s/ Ann Munson Steines

Name: Ann Munson Steines

Title: Secretary

NORDSTROM CANADA RETAIL, INC.

By: /s/ Sheryl Garland

Name: Sheryl Garland

Title: Secretary

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee

By: /s/ Maddy Hughes

Name: Maddy Hughes

Title: Vice President

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Collateral Trustee

By: /s/ Maddy Hughes

Name: Maddy Hughes

Title: Vice President

Exhibit A

[FORM OF FACE OF GLOBAL RESTRICTED NOTE]

No. [~] Principal Amount \$[~] [as revised by the Schedule of Increases and Decreases in Global Note attached hereto]
CUSIP NO. [~]
ISIN NO. [~]

NORDSTROM, INC.

Nordstrom, Inc., a Washington corporation, promises to pay to [Cede & Co.], or its registered assigns, the principal sum of Dollars, [as revised by the Schedule of Increases and Decreases in Global Note attached hereto], on May 15, 2025.

Interest Payment Dates: May 15 and November 15, commencing on November 15, 2020

Record Dates: May 1 and November 1

Additional provisions of this Note are set forth on the other side of this Note.

IN WITNESS WHEREOF, the Issuer has caused this instrument to be duly executed.

NORDSTROM, INC.

By: ___

Name:

Title:

TRUSTEE CERTIFICATE OF AUTHENTICATION

This Note is one of the Notes referred to in the within-mentioned Indenture.

By: —

Authorized Signatory

Dated: _____

[FORM OF REVERSE SIDE OF NOTE]
NORDSTROM, INC.

8.750% Senior Secured Notes due 2025

[Applicable Restricted Notes Legend]
[Depository Legend, if applicable]

Capitalized terms used herein and not defined herein have the meanings ascribed thereto in the Indenture.

1. Interest

Nordstrom, Inc., a Washington corporation, promises to pay interest on the principal amount of this Note at 8.750% per annum from April [16], 2020 until maturity. The Issuer will pay interest semi-annually in arrears every May 15 and November 15 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an “Interest Payment Date”). Interest on the Notes shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided*, that the first Interest Payment Date shall be November 15, 2020. The Issuer shall pay interest on overdue principal at the rate specified herein, and it shall pay interest (including post-petition interest in any proceeding under the Bankruptcy Code) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful. Interest on the Notes will be computed on the basis of a 360-day year comprised of 12 30-day months. Each interest period will end on (but not include) the relevant Interest Payment Date.

2. Method of Payment

By no later than 10:00 a.m. (Eastern Time) on the date on which any principal of, premium, if any, or interest, if any, on any Note is due and payable, the Issuer shall deposit with the Paying Agent a sum sufficient in immediately available funds to pay such principal, premium, if any, and interest, if any, when due. Interest on any Note which is payable, and is timely paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name such Note (or one or more Predecessor Notes) is registered at the close of business on the preceding May 1 and November 1 at the office or agency of the Issuer maintained for such purpose pursuant to Section 2.3 of the Indenture. The principal of, and premium, if any, and interest on the Notes shall be payable at the office or agency of the Paying Agent or Registrar designated by the Issuer maintained for such purpose (which shall initially be the office of the Trustee maintained for such purpose), or at such other office or agency of the Issuer as may be maintained for such purpose pursuant to Section 2.3 of the Indenture; *provided, however*, that, at the option of the Paying Agent, each installment of interest may be paid by (i) check mailed to addresses of the Persons entitled thereto as such addresses shall appear on the Notes Register, or (ii) wire transfer to an account located in the United States maintained by the payee, subject to the last sentence of this paragraph. Payments in respect of Notes represented by a Global Note (including principal, premium, if any, and interest, if any) will be made by wire transfer of immediately available funds to the accounts specified by The Depository Trust Company or any successor depository. Payments in respect of Notes represented by Definitive Notes (including principal, premium, if any, and interest) held by a Holder of at least \$1,000,000 aggregate principal amount of Notes represented by Definitive Notes will be made by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 15 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion). If an Interest Payment Date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

3. Paying Agent and Registrar

The Issuer initially appoints Wells Fargo Bank, National Association (the “Trustee”) to act as the Registrar and Paying Agent for the Notes. The Issuer may change any Registrar or Paying Agent without prior notice to the Holders. The Issuer or any

Guarantor may act as Paying Agent, Registrar or transfer agent.

4. Indenture

The Issuer issued the Notes under an Indenture, dated as of April [16], 2020 (as it may be amended or supplemented from time to time in accordance with the terms thereof, the “Indenture”), among the Issuer, the Guarantors party thereto and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all terms and provisions of the Indenture, and Holders are referred to the Indenture for a statement of those terms. In the event of a conflict between the terms of the Notes and the terms of the Indenture, the terms of the Indenture shall prevail.

5. Guarantees

To guarantee the due and punctual payment of the principal, premium, if any, and interest (including post-filing or post-petition interest) on the Notes and all other amounts payable by the Issuer under the Indenture and the Notes when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes and the Indenture, the Guarantors have guaranteed (and future guarantors, jointly and severally with the Guarantors, will fully guarantee) such obligations on a senior secured basis pursuant to the terms of the Indenture.

6. Optional Redemption

(a) At any time, and from time to time, prior to May 15, 2022, the Issuer may redeem the Notes in whole or in part, at its option, at a redemption price equal to the greater of:

(1) 100% of the principal amount of such Notes redeemed; and

(2) the excess of:

(i) the present value at such redemption date of (i) the redemption price of the Note at May 15, 2022 (such redemption price being set forth in the table under clause (e) below) *plus* (ii) all required interest payments due on the Note through May 15, 2022 (excluding interest paid prior to the redemption date and accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date *plus* 50 basis points; over

(ii) the principal amount of the Note,

(3) *plus*, in each case, any accrued and unpaid interest, if any, to, but not including, the date of redemption (subject to the right of Holders on the relevant record date to receive interest due on the relevant interest payment date).

In the event of any redemption pursuant to this clause (a), the Issuer shall calculate or cause the calculation of the redemption price, and the Trustee shall have no duty to calculate or verify the calculation thereof.

(b) At any time prior to May 15, 2022, the Issuer may, on one or more occasions, redeem up to 35% of the aggregate principal amount of Notes issued under the Indenture at a redemption price equal to 108.750% of the principal amount plus accrued and unpaid interest, if any, to, but not including, the date of redemption (subject to the right of Holders on the relevant record date to receive interest due on the relevant interest payment date) in an amount of up to the amount of net cash proceeds received by, or contributed to, the Issuer from one or more Equity Offerings; *provided* that (1) at least 65% of the aggregate principal amount of Notes originally issued under the Indenture (including Additional Notes but excluding Notes held by the Issuer and its Subsidiaries) remains outstanding immediately after the occurrence of such redemption, and (2) notice of such redemption is given within 90 days of the date of the closing of such Equity Offering. The Trustee shall select the Notes to be redeemed in the manner described under Sections 5.1 through 5.6 of the Indenture.

(c) Except pursuant to clauses (a) and (b) of this paragraph 6, the Notes will not be redeemable at the Issuer’s option prior to May 15, 2022.

(d) On or after May 15, 2022, the Issuer may redeem all or a part of the Notes at the redemption prices (expressed as percentages of principal amount) set forth below *plus* accrued and unpaid interest, if any, on the Notes redeemed, to, but not including, the applicable date of redemption, if redeemed during the twelve-month period beginning on May 15 of the years indicated below, subject to the rights of Holders on the relevant record date to receive interest on the relevant interest payment date:

Year	Percentage
2022	104.375%
2023	102.188%
2024 and thereafter	100.000%

(e) Unless the Issuer defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable Redemption Date. On or prior to any redemption date, we are required to deposit with the paying agent money sufficient to pay the redemption price of, and accrued and unpaid interest to, but not including, the redemption date, on the Notes to be redeemed on such redemption date. If less than all of the Notes are to be redeemed, the Notes to be redeemed will be selected by the Trustee by lot or another method in accordance with the applicable procedures of DTC.

(f) Any redemption pursuant to this paragraph 6 shall be made pursuant to the provisions of Sections 5.1 through 5.6 of the Indenture.

The Issuer is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

7. Repurchase Provisions

If a Change of Control occurs, except as provided in Section 3.11(c) of the Indenture or unless the Issuer exercised its right to redeem all the outstanding Notes pursuant to Section 5.7 of the Indenture, the Issuer will be required to make an offer to each Holder to repurchase all or any part (in minimum denominations of \$2,000 and integral multiples of \$1,000 principal amount in excess thereof) of such Holder's Notes at a repurchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest, if any, on the Notes repurchased, to, but not including, the date of repurchase. Within 30 days following the date of any Change of Control, or, at the Issuer's option, prior to any Change of Control but after the public announcement of the Change of Control, the Issuer shall mail (or in the case of Holders of interests in Global Notes, transmit electronically in accordance with the applicable procedures of DTC) a notice to Holders of Notes (and shall provide a copy of such notice to the Trustee) describing the transaction or transactions that constitute the Change of Control and offering to repurchase the Notes on the date specified in the notice (the "Change of Control Payment Date"), which date shall be no earlier than 30 days and no later than 60 days from the date such notice is so mailed or transmitted, pursuant to the procedures required by this Indenture and described in such notice. The notice shall state, if so mailed or transmitted prior to the date of consummation of the Change of Control, that the offer to repurchase the Notes is conditioned on the Change of Control occurring on or prior to the Change of Control Payment Date specified in the notice.

Upon certain Asset Dispositions, the Issuer may be required to use the Excess Proceeds from such Asset Dispositions to offer to purchase the maximum principal amount of Notes that may be purchased out of the Excess Proceeds, at an offer price in cash in an amount equal to 100% of the principal amount of the Notes (or, to the extent that such Excess Proceeds are from Specified Sale/Leaseback Proceeds, 103% of the principal amount of the Notes), *plus* accrued and unpaid interest, if any, to, but not including, the date of purchase, in accordance with the procedures set forth in Sections 1.1(a) and (c) of the Indenture and in minimum denominations of \$2,000 and in integral multiples of \$1,000 in excess thereof. The Issuer may, in its sole discretion, make an Asset Disposition Offer pursuant to Section 3.5 of the Indenture prior to the time that the aggregate amount of Excess Proceeds exceeds \$25.0 million.

8. Denominations; Transfer; Exchange

The Notes shall be issuable only in fully registered form in minimum denominations of principal amount of \$2,000 and any integral multiple of \$1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay a sum sufficient to cover any tax and fees required by law or permitted by the Indenture. The Registrar need not register the transfer of or exchange of any Note (A) for a period beginning (1) fifteen (15) days before the mailing of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing or (2) fifteen (15) days before an Interest Payment Date and ending on such Interest Payment Date or (B) called for redemption, except the unredeemed portion of any Note being redeemed in part.

9. Persons Deemed Owners

The registered Holder of this Note may be treated as the owner of it for all purposes.

10. Discharge and Defeasance

Subject to certain exceptions and conditions set forth in the Indenture, the Issuer at any time may terminate its obligations under the Notes and the Indenture if the Issuer deposits with the Trustee money or U.S. Government Obligations for the payment of principal, premium, if any, and interest, if any, on the Notes to redemption or maturity, as the case may be.

11. Amendment, Supplement, Waiver

Subject to certain exceptions contained in the Indenture, the Note Documents may be amended, supplemented or otherwise modified with the consent of the Holders of a majority in aggregate principal amount of the Notes then outstanding and issued under the Indenture (including consents obtained in connection with a purchase of or tender offer for such Notes) (in

addition to any other consents required under the terms of the Collateral Trust Agreement or the Security Documents from the parties thereto), and any Default or Event of Default thereunder or compliance with any provision of any Note Document may be waived with the consent of the Holders of a majority in aggregate principal amount of the Notes then outstanding (including consents obtained in connection with a purchase of or tender offer for such Notes). Without the consent of any Holder (and, upon request from the Issuer, the Trustee shall request that the Collateral Trustee enter into any such amendment, supplement or other modification to the applicable Collateral Trust Agreement or Security Documents), the Issuer and the Trustee (together with any other party whose consent is required pursuant to the Collateral Trust Agreement or the Security Documents) may amend, supplement or otherwise modify any Note Document as provided in the Indenture.

12. Defaults and Remedies

If an Event of Default (other than an Event of Default relating to certain events of bankruptcy, insolvency or reorganization of the Issuer) occurs and is continuing, the Trustee by written notice to the Issuer or the Holders of at least 25% in principal amount of the outstanding Notes by written notice to the Issuer and the Trustee, may declare the principal of, premium, if any, and accrued and unpaid interest, on all the Notes to be due and payable. Upon such a declaration, such principal, premium, if any, and accrued and unpaid interest, if any, will be due and payable immediately. If an Event of Default relating to certain events of bankruptcy, insolvency or reorganization of the Issuer occurs and is continuing, the principal of, premium, if any, and accrued and unpaid interest, if any, on all the Notes will become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders. Under certain circumstances, the Holders of a majority in principal amount of the outstanding Notes may waive or rescind any such acceleration with respect to the Notes and its consequences.

13. Trustee Dealings with the Issuer

Subject to certain limitations set forth in the Indenture, the Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer or any respective Affiliate of the Issuer with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar or Custodian may do the same with like rights and duties. The Trustee is also subject to Sections 7.10 and 7.11 of the Indenture.

14. No Recourse Against Others

No director, officer, manager, employee, incorporator or direct or indirect partner, member or stockholder, past, present or future, of the Issuer, any Guarantor or any successor entity of any of them, as such, will have any liability for any of the obligations of the Issuer or any Guarantor under the Notes or the Indenture or any other Note Document or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

15. Authentication

This Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent acting on its behalf) manually signs the certificate of authentication on the other side of this Note.

16. Abbreviations

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with rights of survivorship and not as tenants in common), CUST (= custodian) and U/G/M/A (= Uniform Gift to Minors Act).

17. CUSIP and ISIN Numbers

The Issuer has caused CUSIP and ISIN numbers, if applicable, to be printed on the Notes and has directed the Trustee to use CUSIP and ISIN numbers, if applicable, in notices of redemption or other notices as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption or other notices and reliance may be placed only on the other identification numbers placed thereon.

18. Governing Law

This Note shall be governed by, and construed in accordance with, the laws of the State of New York.

The Issuer will furnish to any Holder upon written request and without charge to the Holder a copy of the Indenture. Requests may be made to:

Nordstrom, Inc.
1700 7th Avenue
Seattle, Washington 98101

19. Security

This Note will be secured by the Collateral on the terms and subject to the conditions set forth in the Indenture, the Security Documents and the Collateral Trust Agreement.

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to:

_____ (Print or type assignee's name, address and zip code)

_____ (Insert assignee's social security or tax I.D. No.)

and irrevocably appoint _____ agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: Your Signature: __

Signature Guarantee: __

(Signature must be guaranteed)

Sign exactly as your name appears on the other side of this Note.

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

The undersigned hereby certifies that it is / is not an Affiliate of an Issuer and that, to its knowledge, the proposed transferee is / is not an Affiliate of an Issuer.

In connection with any transfer or exchange of any of the Notes evidenced by this certificate occurring prior to the date that is one year after the later of the date of original issuance of such Notes and the last date, if any, on which such Notes were owned by an Issuer or any Affiliate of an Issuer, the undersigned confirms that such Notes are being:

CHECK ONE BOX BELOW:

- (1) acquired for the undersigned's own account, without transfer; or
- (2) transferred to the Issuer; or
- (3) transferred pursuant to and in compliance with Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"); or
- (4) transferred pursuant to an effective registration statement under the Securities Act; or
- (5) transferred pursuant to and in compliance with Regulation S under the Securities Act; or
- (6) transferred pursuant to another available exemption from the registration requirements of the Securities Act.

Unless one of the boxes is checked, the Trustee will refuse to register any of the Notes evidenced by this certificate in the name of any person other than the registered Holder thereof; *provided, however*, that if box (5) or (6) is checked, the Issuer may require, prior to registering any such transfer of the Notes, in their sole discretion, such legal opinions, certifications and other information as the Issuer may reasonably request to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, such as the exemption provided by Rule 144 under the Securities Act.

Signature Guarantee: Signature

(Signature must be guaranteed) Signature

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

TO BE COMPLETED BY PURCHASER IF BOX (1) OR (3) ABOVE IS CHECKED.

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned’s foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Dated: _____

[TO BE ATTACHED TO GLOBAL NOTES]

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTES

The following increases or decreases in this Global Note have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Notes Custodian
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OPTION OF HOLDER TO ELECT PURCHASE

If you elect to have this Note purchased by the Issuer pursuant to Section 3.5 or 3.11 of the Indenture, check either box:

Section 3.5 Section 3.11

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 3.5 or 3.11 of the Indenture, state the amount in principal amount (must be in denominations of \$2,000 or an integral multiple of \$1,000 in excess thereof): \$_____ and specify the denomination or denominations (which shall not be less than the minimum authorized denomination) of the Notes to be issued to the Holder for the portion of the within Note not being repurchased (in the absence of any such specification, one such Note will be issued for the portion not being repurchased): _____.

Date: _____ Your Signature _____

(Sign exactly as your name appears on the other side of the Note)

Signature Guarantee: _____

(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT B

Form of Supplemental Indenture

[~] SUPPLEMENTAL INDENTURE, (this “Supplemental Indenture”) dated as of [~], 20[~], by and among Nordstrom, Inc., a Washington corporation (the “Issuer”), the parties that are signatories hereto as Guarantors (each a “Guaranteeing Subsidiary”) and Wells Fargo Bank, National Association, as Trustee under the Indenture referred to below.

WITNESSETH:

WHEREAS, the Issuer, the Guarantors party thereto, and the Trustee have heretofore executed and delivered an indenture, dated as of April [16], 2020 (as amended, supplemented, waived or otherwise modified, the “Indenture”), providing for the issuance of an aggregate principal amount of \$600,000,000 of 8.750% Senior Secured Notes due 2025 (the “Notes”) of the Issuer;

WHEREAS, the Indenture provides that each Guaranting Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which each Guaranting Subsidiary shall unconditionally guarantee, on a joint and several basis, all of the Issuer’s Obligations under the Notes and the Indenture on the terms and conditions set forth herein and under the Indenture (the “Note Guarantee”); and

WHEREAS, pursuant to Section 9.1 of the Indenture, the Issuer, any Guaranting Subsidiary and the Trustee are authorized to execute and deliver this Supplemental Indenture to amend or supplement the Indenture, without the consent of any Holder.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Issuer, the Guaranting Subsidiar[y/ies] and the Trustee mutually covenant and agree for the benefit of the Trustee and the Holders of the Notes as follows:

Article I

DEFINITIONS

SECTION 1.1. Defined Terms. As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recitals hereto are used herein as therein defined. The words “herein,” “hereof” and “hereby” and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular section hereof.

ARTICLE II

AGREEMENT TO BE BOUND; GUARANTEE

SECTION 2.1. Agreement to be Bound. Each of the Guaranting Subsidiaries hereby agrees to become a party to the Indenture as a Guarantor and as such will have all of the rights and be subject to all of the obligations and agreements of a Guarantor under the Indenture.

SECTION 2.2. Guarantee. Each of the Guaranting Subsidiaries agrees, on a joint and several basis, to fully, unconditionally and irrevocably Guarantee to each Holder of the Notes and the Trustee the Guaranteed Obligations pursuant to Article X of the Indenture.

ARTICLE III

MISCELLANEOUS

SECTION 3.1. Notices. All notices and other communications to each Guaranting Subsidiary shall be given as provided in the Indenture, at the address for the Guarantors set forth in the Indenture.

SECTION 3.2. Merger, Amalgamation and Consolidation. Each Guaranting Subsidiary shall not sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge or amalgamate with or into, another Person (other than the Issuer or any Restricted Subsidiary that is a Guarantor or becomes a Guarantor concurrently with the transaction) except in accordance with Section 4.1(b) of the Indenture.

SECTION 3.3. Release of Guarantee. The Note Guarantees hereunder may be released in accordance with Section 10.2 of the Indenture.

SECTION 3.4. Parties. Nothing expressed or mentioned herein is intended or shall be construed to give any Person, firm or corporation, other than the Holders and the Trustee, any legal or equitable right, remedy or claim under or in respect of this Supplemental Indenture or the Indenture or any provision herein or therein contained.

SECTION 3.5. Governing Law. This Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

SECTION 3.6. Severability. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

SECTION 3.7. Benefits Acknowledged. Each Guaranteeing Subsidiary's Note Guarantee is subject to the terms and conditions set forth in the Indenture. Each Guaranteeing Subsidiary acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Indenture and this Supplemental Indenture, and that the guarantee and waivers made by it pursuant to its Note Guarantee are knowingly made in contemplation of such benefits.

SECTION 3.8. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

SECTION 3.9. The Trustee. The Trustee does not make any representation or warranty as to the validity or sufficiency of this Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

SECTION 3.10. Counterparts. The parties hereto may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile, pdf or other electronic transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto, and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile, pdf or other electronic means shall be deemed to be their original signatures for all purposes.

SECTION 3.11. Execution and Delivery. Each Guaranteeing Subsidiary agrees that its Note Guarantee shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of any such Note Guarantee.

SECTION 3.12. Headings. The headings of the Articles and the Sections in this Supplemental Indenture are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

[Signature pages follow]

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

[GUARANTEEING SUBSIDIARIES],

as a Guarantor

By: ___

Name:

Title:

Acknowledged by:

NORDSTROM, INC.

By: ___

Name:

Title:

WELLS FARGO BANK, NATIONAL ASSOCIATION, as Trustee

By: —

Name:

Title:

EXHIBIT C

Form of Certificate to be Delivered in Connection with Transfers Pursuant to Regulation S

[Date]

Nordstrom, Inc.
1700 7th Avenue
Seattle, Washington 98101
Facsimile No.: (206) 303-4419
Attention: Ann Munson Steines

Wells Fargo Bank, National Association,
as Trustee and Registrar.
600 S. Fourth Street, 7th Floor
MAC: N9300-070
Minneapolis, MN 55415 Email: Bondholdercommunications@wellsfarg.com

Re: Nordstrom, Inc. (the “Issuer”)

8.750% Senior Secured Notes due 2025 (the “Notes”)

Ladies and Gentlemen:

116 In connection with our proposed sale of \$[~] aggregate principal amount of the Notes, we confirm that such sale has been effected pursuant to and in accordance with Regulation S under the United States Securities Act of 1933, as amended (the “Securities Act”), and, accordingly, we represent that:

(a) the offer of the Notes was not made to a person in the United States;

(b) either (i) at the time the buy order was originated, the transferee was outside the United States or we and any person acting on our behalf reasonably believed that the transferee was outside the United States, or (ii) the transaction was executed in, on or through the facilities of a designated off-shore securities market and neither we nor any person acting on our behalf knows that the transaction has been pre-arranged with a buyer in the United States;

(c) no directed selling efforts have been made in the United States in contravention of the requirements of Rule 903(a)(2) or Rule 904(a)(2) of Regulation S, as applicable; and

(d) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act.

In addition, if the sale is made during a restricted period and the provisions of Rule 903(b)(2), Rule 903(b)(3) or Rule 904(b)(1) of Regulation S are applicable thereto, we confirm that such sale has been made in accordance with the applicable provisions of Rule 903(b)(2), Rule 903(b)(3) or Rule 904(b)(1), as the case may be.

We also hereby certify that we [are][are not] an Affiliate of an Issuer and, to our knowledge, the transferee of the Notes [is][is not] an Affiliate of an Issuer.

The Trustee and the Issuer are entitled to conclusively rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings, or official inquiry with respect to the matters covered hereby. Terms used in this certificate have the meanings set forth in Regulation S.

Very truly yours,

[Name of Transferor]

By: —

Authorized

Signature

Signature Guarantee: Signature

—

(Signature must be guaranteed) Signature

— —

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT D

Designated Real Estate Assets

1. 2400 Forest Avenue, San Jose, California 95128
2. 8465 Park Meadows Center Drive, Lone Tree, Colorado 80124
3. 1870 Redwood Highway, Corte Madera, California 94925
4. 5192 Hidalgo Street, Houston, Texas 77056
5. 2901 S Capital Of Texas Hwy, Austin, Texas 78746
6. 500 Pine Street #500, Seattle, Washington 98101
7. 5703 N. Marine Drive, Portland, Oregon 97203
8. 5050 Chavenelle Drive, Dubuque, Iowa 52002
9. 1600 S. Milken Avenue, Ontario, California 91761
10. 37599 Filbert Street, Newark, California 94560
11. 839 Commerce Drive, Upper Marlboro, Maryland 20774
12. 5497 NE 49th Avenue, Gainesville, Florida 32609

NORDSTROM
SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN
(2020 Restatement)

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ARTICLE I.

TITLE, PURPOSE AND EFFECTIVE DATE

1.01 Title. This plan shall be known as the Nordstrom Supplemental Executive Retirement Plan, and any reference in this instrument to the “Plan” or “SERP” shall include the plan as described herein and as amended from time to time.

1.02 Purpose. The Plan is intended to constitute an unfunded plan maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees of Nordstrom, Inc., a Washington corporation (“Company”), and its affiliates as designated by the Board (collectively the “Employers”), within the meaning of Section 201(2), 301(a)(3) and 401(a)(4) of the Employee Retirement Income Security Act of 1974 (“ERISA”). In addition, the Plan is an unfunded, nonqualified plan that is not intended to satisfy the qualification requirements set forth in Section 401(a) of the Internal Revenue Code of 1986, as amended (“Code”). The benefits provided to a Participant under this Plan are in addition to any other benefits available to such Participant under any other plan or program for employees of the Employers. The Plan shall supplement and shall not supersede, modify or amend any other such plan or program except as may otherwise be expressly provided.

1.03 Effective Date . The Plan was originally effective as of July 18, 1988. The Plan was subsequently amended on a number of occasions and, in order to provide a number of Plan design changes, to make changes in Plan administration and to otherwise clarify certain Plan provisions, the Company adopted a restatement of the Plan, effective January 1, 1999. Subsequent to the 1999 Restatement, the Company undertook a complete review of the competitive nature of the Plan’s benefit structure, revisited the initial goals and objectives of the Plan and, in making a number of other administrative changes, adopted the 2002 Restatement. After an internal review of the 2002 Restatement and the structure of the benefit formula and its impact on specific participant groups, a number of modifications were proposed, which were included in a 2003 Restatement. The 2008 Restatement was adopted effective January 1, 2009, to document compliance with Section 409A of the Code. For the period from January 1, 2005 to December 31, 2008, the Plan observed operational compliance with Section 409A of the Code, in accordance with transitional guidance issued by the Internal Revenue Service. This 2020 Restatement is generally effective January 1, 2020, unless otherwise indicated herein.

ARTICLE II.

ELIGIBILITY AND PARTICIPATION

2.01 Eligibility. Eligibility for this Plan shall be limited to Executives as that term is defined herein.

(a) Executive Defined. For purposes of this Plan, the term “Executive” means the officers of Nordstrom, Inc., as selected by the Board, and any other management or highly compensated employee of the Company or an Employer, who has been specifically designated by the Committee and approved by the Board as eligible to become a Participant in this Plan. When designating such individual as an “Executive,” the Board or Committee shall have the discretion to categorize Executives as any one of the following:

(i) 1999 Plan Executives. A “1999 Plan Executive” is any Executive who, as of January 1, 2003, was both: (1) designated as eligible under the Plan (either because he or she was a corporate officer or as a result of Board or Committee designation), and (2) eligible for, or within one year of being eligible for, Early Retirement under the Plan.

(ii) Transition Plan Executives. A “Transition Plan Executive” is any Executive who, as of January 1, 2003, met all of the following requirements: (1) was designated as eligible under the Plan (either because he or she was a corporate officer or as a result of Board or Committee designation), (2) had more than 15 Years of Credited Service under the Plan, (3) was not eligible for, and was not within one year of being eligible for, Early Retirement under the Plan, and (4) was not specifically designated as a Tier I or Tier II Executive.

(iii) Tier I Executives. A “Tier I Executive” is any Executive designated by the Board or the Committee as a Tier I Executive and who is not a 1999 Plan Executive or a Transition Plan Executive.

(iv) Tier II Executives. A “Tier II Executive” is any Executive designated by the Board or Committee as a Tier II Executive and who is not a 1999 Plan Executive or a Transition Plan Executive.

(v) Change in Designation. The Committee and the Board shall have the discretion and authority to change an Executive’s designation, provided that the time and form of payment of a benefit under this Plan shall be determined based on the Executive’s category when he or she was first designated as eligible for this Plan.

(b) Revocation of Designation. Notwithstanding the foregoing, the Board may, in its sole and exclusive discretion, revoke an employee’s designation as an Executive hereunder at any time. An Executive whose designation has been revoked shall be entitled to only those benefits, if any, which have vested as of the date of revocation, and the revocation shall not change the time or form of payment of benefits.

(c) Certain Executive Transfers. An Executive who has terminated employment with an Employer or the Company as a result of an employment transfer to an affiliate that is not an Employer, shall continue to be considered an eligible Executive solely for purposes of determining whether the Executive has separated from active employment (including for purposes of determining eligibility for Early Retirement under 3.06), but shall not accrue any additional benefits while not actively employed by the Company or an Employer. Any subsequent designation of such individual's Executive status under the Plan may include benefit credit for years of service with such organization as the Committee deems appropriate.

2.02 Participation. An Executive becomes a "Participant" in the Plan, when such Executive retires under 2.02(a), with the appropriate approval under 2.02(b) and 2.02(c), as follows:

(a) "Retirement" Defined. An Executive retires under the terms of the Plan when such Executive separates from active employment with the Company and each and every subsidiary and affiliate of the Company, on or after a retirement date specified in this section. For purposes of this Plan, an Executive separates from active employment on the date when the Company and the Executive reasonably anticipate that the Executive's level of bona fide services will be permanently reduced to 49 percent or less of the level of bona fide services performed during the immediately preceding period of 36 consecutive months. An Executive's termination of employment with the Company as a result of such Executive's transfer to a subsidiary or affiliate of the Company shall not, by itself, constitute a separation from active employment for purposes of this section. The retirement dates are:

(i) Normal Retirement Date. The Executive's Normal Retirement Date shall be (a) a 1999 Plan Executive's sixtieth (60th) birthday, (b) a Transition Plan Executive's fifty-fifth (55th) birthday, or (c) a Tier I or Tier II Executive's fifty-eighth (58th) birthday.

(ii) Early Retirement Date. The Executive's Early Retirement Date shall be the date that the Executive has both:

(1) completed at least ten (10) Years of Credited Service (as defined under 3.01(a)); and

(2) in the case of a 1999 Plan Executive, attained age 50, or in the case of a Tier I, Tier II or Transition Plan Executive, attained age 53.

(iii) Disability Retirement Date. The Executive's Disability Retirement Date shall be the date on which: (1) a 1999 Plan Executive becomes eligible for unreduced Early Retirement Benefits under Section 3.06, provided that the Executive continues to be permanently Disabled on such date, or (2) a Tier I, Tier II or Transition Plan Executive becomes eligible for Normal Retirement Benefits under 3.05, provided that the Executive continues to be permanently Disabled through his or her Normal Retirement Date.

(b) Committee Approval. The Committee is not required to approve Retirement Benefits under Article III, provided that the Company's Compensation Department (or any successor

department) shall report all such Retirement Benefits that commenced during the year to the Committee annually.

(c) Board Approval for Early Retirement. An Executive who separates from active employment on or after his or her Early Retirement Date (but prior to Normal Retirement Date) must receive the consent and approval of the Board for such early retirement. If the Executive elects to separate from active employment without Board approval of early retirement, the Executive's entire benefit under the Plan shall be forfeited.

2.03 Disability. An Executive who becomes Disabled while employed by the Company or an Employer shall be deemed to be an Executive in active service with the Company during the period of such Disability and shall continue to accrue Years of Credited Service for such period whether or not such Executive actually performs services for the Company during such period; provided, however, that accrual of service under this section shall cease upon the earlier of the Disabled Executive's: (i) recovering from such Disability; or (ii) Disability Retirement Date. An Executive who recovers from such Disability, but who does not thereafter return to active service with an Employer shall be treated as though he or she terminated employment prior to reaching a Retirement Date and his or her Plan benefit shall be forfeited. For purposes of this Plan, an Executive is Disabled if the Executive is considered "disabled" under the Company's Disability Program.

2.04 Leave of Absence. The Board shall determine, on an individual basis and in its sole and absolute discretion, the treatment under the Plan of an Executive who takes a leave of absence from the Company or an Employer for reasons other than Disability, provided that the Board shall not change the time or form of payment of benefits set forth in this Plan solely because of the Executive's leave of absence. If an Executive is on an approved leave of absence for reasons other than Disability, the employment relationship will be treated as continuing for the entire period of the approved leave.

ARTICLE III.

BENEFITS

3.01 Retirement Benefit. An Executive's "Retirement Benefit" shall mean the benefit payable to the Executive as a Participant, pursuant to this Article III, expressed and payable as a monthly benefit in the form of a 50% Joint and Survivor Annuity, commencing on the Retirement Date. An Executive's Retirement Benefit depends on the Executive's eligibility category as designated by the Board or Committee as a 1999 Plan Executive, Transition Plan Executive, Tier I Executive, or Tier II Executive, with the following provisions and definitions applying to each of those categories:

(a) Year of Credited Service. A "Year of Credited Service" shall have the same meaning as "Years of Service" under the Nordstrom 401(k) Plan (and any predecessor or successor thereto) ("401(k) Plan"). Service with a subsidiary or other corporation controlled by the Company shall not be considered "Credited Service" unless the Committee specifically agrees to credit such

service. In addition, Years of Credited Service may be granted by the Committee under 4.05. In no case, however, will more than twenty-five (25) Years of Credited Service be counted for any purpose under the Plan.

(b) Final Average Compensation. For purposes of this Plan, Final Average Compensation shall mean the monthly compensation resulting from the average of the highest thirty-six (36) months of the Executive's Covered Compensation, measured over the Averaging Period:

(i) Covered Compensation. For purposes of determining an Executive's Final Average Compensation, Covered Compensation shall include base salary and the cash bonus accrued for a fiscal year, divided by the number of full and partial months the Executive worked in the fiscal year. Covered Compensation shall not include any other items of remuneration such as reimbursements, allowances, fringe benefits or gains on the exercise of stock options, regardless of whether such amounts are included in the taxable income of the Executive. Unless specifically agreed to by the Committee, Covered Compensation shall not include any remuneration provided by a subsidiary or an affiliate.

(ii) Averaging Period. The Executive's Averaging Period shall be the longer of: (a) the final sixty (60) months of the Executive's employment; or (b) the entire period of service (measured in months) after either (1) a 1999 Plan Executive's fiftieth (50th) birthday, or (2) a Transition Plan or Tier I or II Executive's fifty-third (53rd) birthday. Unless the Committee decides otherwise, periods of employment with a subsidiary or affiliate that is not an Employer shall not be considered for purposes of determining the Averaging Period.

(c) Maximum Retirement Benefit. Notwithstanding anything in the Plan to the contrary, including this Article III, the Retirement Benefit payable under this Plan to an Executive who is a Nordstrom family member shall at no time exceed \$58,333.33 per month. For purposes of this paragraph, a "Nordstrom family member" means an individual who is a direct lineal descendant of the Company's founder, John W. Nordstrom.

3.02 Tier I Executive Retirement Benefit. A Tier I Executive's Retirement Benefit shall be equal to one and six-tenths percent (1.6%) of such Executive's Final Average Compensation, multiplied by the Executive's Years of Credited Service.

3.03 Tier II Executive Retirement Benefit. A Tier II Executive's Retirement Benefit shall be equal to eight-tenths percent (0.8%) of such Executive's Final Average Compensation, multiplied by the Executive's Years of Credited Service.

3.04 1999 and Transition Plan Executive Retirement Benefit. A 1999 Plan Executive's Retirement Benefit and a Transition Plan Executive's Retirement Benefit shall be equal to two and four-tenths percent (2.4%) of such Executive's Final Average Compensation, multiplied by the Executive's Years of Credited Service, but reduced by the Executive's Annuity Value of 401(k) Plan, determined as follows:

(a) Annuity Value of 401(k) Plan. The Executive's Annuity Value of 401(k) Plan means the actuarially equivalent monthly amount of the Executive's Company contribution account balances as of the date such Executive retires, if the account balances were paid in the form of a 50% Joint and Survivor Annuity, as follows:

(i) 401(k) Plan. Company-provided 401(k) Plan and matching contributions (and income thereon) under the 401(k) Plan; plus

(ii) Other Qualified Plans. The amount of any Company-provided benefits to the Executive under any other qualified plan of the Company or its affiliates; plus

(iii) Distributions. The amount of any previous withdrawals or other distributions of any type (regardless of the payee) from the previously described plans (without adjustment for imputed earnings for any period following the actual date of withdrawal or distribution), other than (1) distributions of life insurance policies from the 401(k) Plan; and (2) the excess (if any) of premiums paid with respect to life insurance policies prior to such date over the cash surrender value used in computing the account balances in the 401(k) Plan as of such date expressed and payable as a monthly benefit commencing on the applicable payment date in the form of a 50% Joint and Survivor Annuity.

(b) 50% Joint and Survivor Annuity. For purposes of determining the reductions under Section 3.04(a), a 50% Joint and Survivor Annuity means the annuity defined in Section 5.02, with the following modifications to take into account the determination of such annuity value upon the Participant's (as opposed to the Beneficiary's) commencement of benefits under the Plan:

(i) Beneficiary. A Participant's joint annuitant in this context is the individual who would be considered the Participant's Beneficiary under 5.02(a) (for purposes of the Plan's pre-retirement survivor annuity) on the date the Participant retires. In the event that there is no Beneficiary on such date, the survivor annuity shall be calculated as though the Participant had a Beneficiary of the same age as the Participant.

(ii) Actuarial Equivalent. The Actuarial Equivalent used for this section shall be the same as that defined and used by the Committee in Section 5.02(b), except that the interest rate used shall be the IRS Long Term Applicable Federal Rate (AFR) stated for the month prior to the month in which the Executive retires.

3.05 Normal Retirement Benefits. An Executive who retires on or after Normal Retirement Date shall be entitled to a Retirement Benefit under either 3.02, 3.03 or 3.04 (as appropriate) determined as of the actual date the Executive retires.

3.06 Early Retirement Benefits. Subject to 3.06(c), an Executive who retires (with the consent and approval of the Board) on or after his or her Early Retirement Date but before his Normal Retirement Date shall be entitled to an Early Retirement Benefit as follows:

(a) Retirement Benefit. The Executive's Retirement Benefit under 3.02, 3.03 or 3.04 (as appropriate) determined on the actual date the Executive retires, reduced by the Early Retirement Reduction Factor.

(b) Early Retirement Reduction Factor.

(i) 1999 Plan Executives. For 1999 Plan Executives, three percent (3%) for each year the sum of the Participant's age and Years of Credited Service is less than 75.

(ii) Transition Plan Executives. For Transition Plan Executives, twelve and one-half percent (12.5%) for each year prior to the Executive's Normal Retirement Date, with such reduction percentage to be prorated for any applicable fraction of a year, based on the number of full months worked in such year.

(iii) Tiers I and II Executives. For any Tier I or Tier II Executive, ten percent (10%) for each year prior to the Executive's Normal Retirement Date, with such reduction percentage to be prorated for any applicable fraction of a year, based on the number of full months worked in such year.

(c) Transition Plan Executives. If a Transition Plan Executive's Early Retirement Benefit calculated as though they were a Tier I Executive (under 3.02 and 3.06(b)(iii)), is greater than the Early Retirement Benefit calculated as a Transition Plan Executive (under 3.04 and 3.06(b)(ii)), then such Transition Plan Executive shall be entitled to receive such greater Early Retirement Benefit calculated as though they were a Tier I Executive.

3.07 Deferred Retirement Benefits . An Executive who retires after his or her Normal Retirement Date shall be entitled to a Deferred Retirement Benefit equal to the Normal Retirement Benefit under this Article III, but increased with interest for each Year of Post-Normal Retirement Date Service, up to a maximum of ten (10) Years of Post-Normal Retirement Date Service. For Executives who have not retired as of the August 8, 2014, a Year of Post-Normal Retirement Date Service means the period of twelve (12) consecutive full months beginning with the Participant's Normal Retirement Date, and each successive period of twelve (12) consecutive full months, prior to the Participant's date of Retirement (as defined in 2.02(a)). Partial Years of Post-Normal Retirement Date Service shall be disregarded. An interest rate of five percent (5%) per Year of Post-Normal Retirement Date Service, compounded annually, shall be used to calculate the increase under this section.

3.08 Disability Retirement Benefits. A Disabled Executive continuing to accrue service credit under Section 2.03 shall be treated, for purposes of the Plan, as an active Executive for such period, and the Retirement Benefit under this Article III shall be determined as of such Disabled Executive's Disability Retirement Date. A Disabled Executive may not receive Retirement Benefits prior to the Disability Retirement Date, even if, for example, the Executive qualifies for Early Retirement before his or her Disability Retirement Date. In addition, a Disabled Executive who receives Retirement Benefits while also receiving long-term disability or other disability income benefits pursuant to any other Employer-sponsored plan, fund or program that covers a substantial

number of employees (excluding disability income paid by Social Security), shall have the monthly Retirement Benefit payable under this Plan reduced (but not below zero) by the monthly benefit actually paid or payable under such other plan. The amount by which the disability retirement benefit is reduced due to other payments shall be permanently forfeited.

3.09 Death Benefit. The Death Benefit under this Plan, whether payable before or after Retirement, shall consist solely of a survivor annuity, payable for the life of the Beneficiary (if any), as described in Article V.

3.10 Payment of Benefits. The following shall apply to the payment of benefits under Article III:

(a) Payment Commencement.

(i) General Rule. Payment of benefits under this Article III shall commence within 90 days after the date the Executive retires. The Participant may not designate the taxable year in which payments will begin.

(ii) Key Employees. If the Executive is a Key Employee, in order to comply with Code Section 409A, payments during the six-month period beginning on the Retirement Date shall be suspended. The first payment after expiration of the six-month waiting period shall include all periodic payments that were suspended during the six-month waiting period. For purposes of the Plan, Key Employee has the same meaning as under Code Section 416(i)(1)(A)(i), (ii), or (iii) (and disregarding Code Section 416(i)(5)). An Executive's status as a Key Employee is determined as of each September 30, and the Executive is treated as a Key Employee under the Plan for the next calendar year.

(b) Timing of Payment. Periodic payments of benefits shall be paid in equal amounts on each of the Company's regular payroll dates in accordance with the Company's payroll policy then in effect.

(c) Withholding.

(i) Income Tax and Other Withholding. The Company shall withhold from any and all benefit payments made under the Plan and this Article III, all federal, state and local income taxes the Company reasonably determines are required to be withheld in connection with the benefits hereunder, and any other amounts due, owing and unpaid by the Participant to the Company, to be determined in the sole discretion of the Company. In the event the amounts due under this 3.10(c)(i) exceed the amount of benefits currently payable, the Participant shall be required to contribute to the Company an amount necessary to meet such obligations.

(ii) Employment Taxes. At the time of Retirement, the Company shall calculate the employment taxes (i.e., Social Security and Medicare taxes) due on the Participant's benefit under the Plan. Employment taxes shall be remitted to the appropriate taxing authority in accordance

with applicable federal and state tax regulations. The Company may, but is not required to, pay the Participant's share of the employment taxes on behalf of the Participant.

ARTICLE IV.

RIGHTS OF PARTICIPANTS IN THE PLAN

4.01 Vesting. Except as otherwise provided in this Section and elsewhere in Article IV and Section 6.02, no Executive, Participant or Beneficiary shall have any vested interest in any Plan benefits. The Benefits in which such Participant or Beneficiary has a vested interest under this Section (subject to forfeiture in 4.02) shall be determined as follows:

(a) Years in Position. In addition to the other requirements of this Section 4.01, an Employee must have been a designated Tier II Executive under the Plan for a period of at least seven Years of Credited Service in order to become vested in a benefit under this Plan.

(b) Early Retirement. A Participant entitled to Early Retirement Benefits under Section 3.06 shall have a vested interest in such benefits after the Board consents to and approves the Participant's Early Retirement Date.

(c) Normal Retirement. A Participant entitled to Normal Retirement benefits under Section 3.05 shall have a vested interest in Normal Retirement benefits on the Participant's Normal Retirement Date.

(d) Deferred Retirement. An Executive who retires after Normal Retirement Date shall have a vested interest in Retirement Benefits granted under Section 3.05 on the Participant's Normal Retirement Date, and shall have a vested interest in the additional benefits under Section 3.07 on such Participant's Deferred Retirement Date.

(e) Death Benefit. The Beneficiary of a Participant who is entitled to a survivor annuity under Article V shall have a vested interest in any applicable survivor annuity which is actually payable in accordance with the terms of Article V, on and after the date of the Participant's death.

4.02 Exceptions to Vesting. Notwithstanding any other provision of this Plan, an Executive's benefit shall be forfeited in the following situations:

(a) Tier II Executives. No benefits shall be paid to a Tier II Executive who terminates employment with less than seven Years of Credited Service as a designated Tier II Executive under the Plan.

(b) Suicide or Self-Inflicted Injury. No benefits shall be paid to an Executive or to any Beneficiary of such Executive as a result of suicide or self-inflicted injury by the Executive within three (3) years after such Executive becomes an “Executive” under the Plan.

(c) Termination for Cause. If an Executive is terminated for “cause” or if an Executive is found by the Company at any time to have engaged in any acts as would have constituted “cause” for termination, the Executive and any Beneficiary of the Executive shall immediately forfeit any and all rights to benefits under this Plan. Accordingly, any benefits in pay status shall cease immediately, and no future benefits shall be payable to the Executive or to his or her Beneficiary. For purposes of this Plan, “cause” shall mean that the Executive has or had:

(i) misappropriated, stolen or embezzled funds of the Company or an affiliate;

(ii) committed an act of deceit, fraud, dereliction of duty or gross or willful misconduct;

(iii) been convicted of either a felony or a crime involving moral turpitude or entered a plea of no contest in response to an indictment for such crime or felony;

(iv) intentionally disclosed confidential information of the Company or an affiliate (except when such disclosure is made pursuant to the direction of the Company or in accordance with legal, administrative or judicial process); or

(v) engaged in competitive behavior against, actions inimical to the interests of, purposely aided a competitor of, or has misappropriated or aided in the misappropriation of a material opportunity of the Company or its affiliates.

(d) Cessation of Benefits for Competition. Retirement Benefits currently in pay status to a Participant shall cease, and no further benefits shall be payable, to the Participant (or Beneficiary) to the extent the Participant competes, directly or indirectly, with the Company. For purposes of this Plan, “competing, directly or indirectly, with the Company” shall mean (without limitation) a determination, in the sole discretion of the Committee, of any of the following: (i) engaging in the operation of any type of business or enterprise in any way competitive with the business of the Company or its subsidiaries or affiliates, (ii) holding an interest, either directly or indirectly, as owner, director, officer, employee, partner, shareholder (other than as the owner of less than two percent (2%) of the outstanding stock of a publicly owned company), in any type of business or enterprise in any way competitive with the business of the Company or its subsidiaries or affiliates; or (iii) investing capital in, lending money or property to or rendering services to any type of business or enterprise in any way competitive with the business of the Company or its subsidiaries or affiliates. In the event of a dispute as to the application of this paragraph, the Committee may waive or modify its right to discontinue payment to any Participant or to any Beneficiary of such Participant by written agreement.

4.03 Application of Clawback Policy. This section applies if the Board elects to apply the Company's clawback policy to a Participant and application of the clawback policy results in a reduction in the Participant's Final Average Compensation. The Participant's Plan benefit shall be recalculated, and the Participant's future payments shall be adjusted automatically beginning with the first payment after the recalculation is completed. To the extent that the Participant has already received payments under the Plan and those payments are greater than the recalculated benefit (i.e., an overpayment), the Plan Administrator shall recover the overpayment by reducing the next payment due under the Plan (but not below zero) and applying it to the overpayment. To the extent that there continues to be an overpayment after reduction of the first recalculated payment, each successive payment shall be reduced (but not below zero) and the reduction shall be applied to the overpayment until the overpayment has been repaid in full. Once the overpayment has been repaid in full, the Participant shall receive the recalculated benefit as if the recalculated benefit had been the initial benefit calculated under the Plan. The provisions of this section for recovery of overpayments shall also apply to the Beneficiary of a Participant after the Participant's death.

4.04 Rights in Plan are Unfunded and Unsecured. The Company's obligation under the Plan shall in every case be an unfunded and unsecured promise to pay. A Participant's right to Plan distributions shall be no greater than the rights of general, unsecured creditors of the Company. The Company may establish one or more grantor trusts (as defined in Code Section 671 et seq.) to facilitate the payment of benefits hereunder; however, the Company shall not be obligated under any circumstances (other than a Change of Control, as described in 6.02) to fund its financial obligations under the Plan. Any assets which the Company may acquire or set aside to defray its financial liabilities shall be general assets of the Company, and such assets, as well as any assets set aside in a grantor trust, shall be subject to the claims of its general creditors in the event of the Company's insolvency.

4.05 Discretion to Grant Years of Service or Increase Age. If circumstances warrant, and it is decided it is in the best interests of the Company, the Committee shall have the authority and discretion to grant to certain individuals additional Years of Credited Service or to treat such individuals as having attained a certain age for purposes of this Plan, provided, however, that no such action may alter the time or form of payment of Plan benefits. Such circumstances may include (a) providing Executives with a recruiting incentive, or (b) such other circumstances that the Committee deems appropriate. The Committee may condition the receipt of such additional benefits (to which the Executive is not otherwise entitled) on the Participant's execution of an election of increased benefits under this Plan and a general release of all claims. The Committee's granting of Years of Credited Service and/or treating the Executive as attaining a certain age may affect the amount of the Executive's benefit under this Plan, but shall not alter, and shall not be construed as altering, the Executive's actual age or years of service with the Employer under any other plan of the Employer or for purposes of determining the time or form of payment under this Plan.

ARTICLE V.

DEATH BENEFITS

5.01 Death Benefit Payable . Each Executive's Retirement Benefit is expressed and payable as a monthly benefit in the form of a 50% Joint and Survivor Annuity under this Plan. Accordingly, the sole death benefit payable under this Plan on behalf of an Executive or a Participant is as follows:

(a) Pre-Retirement Death Benefit. If a Participant dies while actively employed as an Executive, a pre-retirement death benefit shall be payable under the Plan upon the death of the Executive. The pre-retirement death benefit shall be a Survivor Annuity payable for the life of the Executive's Beneficiary, calculated as though the Executive had retired as a Participant and had begun receiving Early, Normal or Deferred Retirement Benefits under the Plan based on his or her actual age and Years of Credited Service on the day before his or her death. The periodic payment to the Beneficiary is 50% of the periodic payment that would have been paid to the Executive if the Executive had not died prior to Retirement. If the Executive dies before reaching a Retirement Date under the Plan, the survivor annuity shall commence on the earliest date the Executive would have been eligible to retire under the Plan.

(b) Post-Retirement Death Benefit. The Post-Retirement Death Benefit payable on behalf of a Participant shall be a 50% Survivor Annuity payable for the life of the Participant's Beneficiary, based on the actual Retirement Benefit the Participant was receiving at the time of his or her death, calculated in accordance with the provisions of Section 5.02.

5.02 50% Joint and Survivor Annuity. A 50% Joint and Survivor Annuity means an annuity for the life of the Participant and, after his or her death, a survivor annuity for the life of the Participant's Beneficiary in an amount that is fifty percent (50%) of the original annuity amount paid to the Participant; provided, however, that if the Beneficiary is more than five years younger than the Participant, such survivor annuity will be calculated so that it is the Actuarial Equivalent of the 50% survivor annuity for a Beneficiary five years younger than the Participant.

(a) Beneficiary. A Participant's Beneficiary is the individual to whom the Participant is legally married or the Participant's Registered Domestic Partner on the date of the Participant's death. For this purpose, the term "Registered Domestic Partner" has the same meaning as is used under the Nordstrom Welfare Benefit Plan; provided, however, that the Committee may, in its discretion, substitute a less restrictive definition than is used in the Nordstrom Welfare Benefit Plan.

(b) Actuarial Equivalent. The Committee shall have the authority to periodically determine and change the appropriate factors used to determine Actuarial Equivalence under the Plan. As of the Effective Date of this Restatement, the mortality table shall be the 1983 Group

Annuity Mortality Table for males (GAM 83) and the interest rate shall be the IRS Long Term Applicable Federal Rate (AFR) stated for the month of the Executive's death.

5.03 Acknowledgment. The Committee shall have the sole and exclusive discretion to determine the identity of any Beneficiary, and no person shall have a right to any death benefit under this Plan in the absence of a determination that he or she is the Beneficiary of the Executive or Participant.

5.04 Surviving Beneficiary. For purposes of determining whether the Beneficiary predeceases the Executive, the individual is considered to survive the Executive if such Beneficiary is alive seven (7) days after the date of the Executive's death.

5.05 Doubt as to Beneficiary. If the Plan Administrator has any doubt as to the proper individual to receive payments pursuant to this Plan, the Plan Administrator shall have the right, exercisable in its discretion, to cause the Executive's Employer to withhold such payments until this matter is resolved to the Plan Administrator's satisfaction.

ARTICLE VI.

TERMINATION, AMENDMENT OR MODIFICATION OF THE PLAN

6.01 Plan Amendments and Termination.

(a) Board of Directors. The Plan may be amended or terminated by the Board of Directors at any time. Except as provided in 6.02, such amendment or termination may modify or eliminate any benefit hereunder other than a benefit that is in pay status, or the vested portion of a Retirement Benefit that is not in pay status.

(b) Compensation, People and Culture Committee. The Committee has the authority on behalf of the Board to review, finalize, approve and adopt amendments to the Plan, other than amendments relating to Plan eligibility. Except as provided in 6.02, such amendment may modify or eliminate any benefit hereunder other than a benefit that is in pay status, or the vested portion of a Retirement Benefit that is not in pay status. The Committee shall notify the Board of all amendments adopted under this provision.

(c) Officer in Charge of Human Resources. The Company's senior officer with responsibility for Human Resources has the authority on behalf of the Board to review, finalize, approve and adopt technical, legal, administrative, and compliance amendments recommended by the Company's legal counsel. The Company's senior officer with responsibility for Human Resources shall notify the Board of all amendments adopted under this provision.

(d) Benefits on Termination. If the Plan is terminated, benefit payments may be accelerated only to the extent permitted in final regulations under Code Section 409A.

6.02 Change of Control – Protected Benefits. In the event of a Change of Control (as defined in the Trust), the following additional provisions shall apply.

(a) No Amendment or Termination. No amendment (or termination) of the Plan can occur that would reduce or otherwise eliminate the monthly benefit payable under the Plan to any person with respect to a Participant who retired prior to such Change of Control, nor shall any Plan amendment reduce the benefit to be paid with respect to an Executive (who has not retired) below the amount which such Executive has accrued and would have received (upon reaching Normal Retirement Date) had he or she retired the day before such Change of Control (the “Change of Control Benefit”).

(b) Full Vesting in Accrued Benefit. Upon the occurrence of a Change of Control, each active Executive shall be fully vested in his or her Change of Control Benefit under this Plan through the date of the Change of Control; in the event of termination of employment after a Change of Control and before the Executive’s Normal Retirement Date, the terminated Executive shall receive a reduced Early Retirement benefit commencing on his or her Early Retirement Date (with reductions based upon the age attained on the actual Early Retirement Date and without the need for Board approval of the Early Retirement Date).

(c) Full Funding. Notwithstanding the provisions of Section 4.04 and the unfunded status of the Plan, in the event of a Change of Control, the Company shall fully fund the Trust as provided in Article VIII.

ARTICLE VII.

CLAIMS PROCEDURES

7.01 Submission of Claim. Benefits shall be paid in accordance with the provisions of this Plan. The Participant, or any person claiming through the Participant (“Claiming Party”), shall make a written request for benefits under this Plan, mailed or delivered to the Committee. Such claim shall be reviewed by the Committee or its delegate.

7.02 Denial of Claim. If a claim for payment of benefits is denied in full or in part, the Committee or its delegate shall provide a written notice to the Claiming Party within ninety (90) days setting forth: (a) the specific reasons for denial; (b) any additional material or information necessary to perfect the claim; (c) an explanation of why such material or information is necessary; and (d) an explanation of the steps to be taken for a review of the denial. A claim shall be deemed denied if the Committee or its delegate does not take any action within the aforesaid ninety (90) day period.

7.03 Review of Denied Claim. If the Claiming Party desires Committee review of a denied claim, the Claiming Party shall notify the Committee or its delegate in writing within sixty (60) days after receipt of the written notice of denial. As part of such written request, the Claiming Party may request a review of the Plan document or other non-privileged documents relevant to the

claim, may submit any written issues and comments, and may request an extension of time for such written submission of issues and comments.

7.04 Decision upon Review of Denied Claim. The decision on the review of the denied claim shall be rendered by the Committee within sixty (60) days after receipt of the request for review. If circumstances require, the Committee may take up to an additional sixty (60) days to render its decision. The decision shall be in writing and shall state the specific reasons for the decision, including reference to specific provisions of the Plan on which the decision is based.

ARTICLE VIII.

TRUST

8.01 Establishment of the Trust. The Company may establish a trust, provided that any trust created by the Company, and any assets held by such trust to assist the Company in meeting its obligations under this Plan, shall be structured in a way to avoid immediate taxation to Participants in the Plan. Except in the case of a Change of Control (as defined in the Trust), the Company reserves the absolute right, in its sole and exclusive discretion, to direct (or refrain from directing) the transfer over to the Trust of such assets to the extent the Company deems advisable, provided that no such transfer, Trust or other arrangement entered into by the Company shall affect the status of the Plan as unfunded for purposes of ERISA or the Code.

8.02 Interrelationship of the Plan and the Trust. The provisions of the Plan shall govern the rights of a Participant to receive distributions pursuant to the Plan. The provisions of the Trust shall govern the rights of the Company, Participants and the creditors of the Company to the assets transferred to the Trust. The Company shall at all times remain liable to carry out its obligations under the Plan. The Company's obligations under the Plan may be satisfied with Trust assets distributed pursuant to the terms of the Trust, and any such distribution shall reduce the Company's obligations under this Plan.

8.03 Funding on Change of Control. In the event of a Change of Control (as defined in the Trust) at any time when the Trust has not been terminated and is not fully funded (as defined below), the Company shall promptly transfer to the trustee of the Trust assets sufficient to cause the Trust to be fully funded on the date of such transfer. For purposes of this paragraph, the Trust shall be "fully funded" on a given date if, on such date, the fair market value of the assets held by the trustee of the Trust is at least equal to the Actuarial Equivalent present value of: (i) all benefits under the Plan in pay status to Participants or Beneficiaries on such date; plus (ii) the fully vested Change of Control Benefit under 6.02. For purposes of this paragraph, Actuarial Equivalent present value shall be determined using the interest and mortality assumptions of the Article III Actuarial Equivalent in effect for the month prior to the Change of Control.

8.04 Administration of Trust Assets. Prior to a Change of Control, the Company, acting through an Administrative Committee established for the purpose of overseeing administration of the Company's non-qualified deferred compensation plans, shall direct the Trustee

regarding the investment of Trust assets. On and after a Change of Control, the authority of the Administrative Committee shall cease, and the Trustee shall have the exclusive authority and responsibility for the investment of Trust assets, subject to any investment guidelines provided by the Company prior to the Change of Control.

ARTICLE IX.

PLAN ADMINISTRATION

9.01 Plan Sponsor and Administrator. The Company is the “Plan Sponsor,” and the Committee is the “Plan Administrator.” The Company’s senior officer with responsibility for Human Resources and the Company’s Compensation Department (or any successor department) have been selected to assist the Committee in its day to day responsibilities with respect to the Plan. The Committee, with the advice of the Compensation Department, will make such rules and computations and will take such other actions to administer the Plan as the Committee may deem appropriate.

9.02 Authority of Committee. As Plan Administrator, the Committee has the sole and exclusive discretion, authority and responsibility to construe and interpret the terms and provisions of the Plan, to remedy and resolve ambiguities, to grant or deny any and all claims for benefits and to determine all issues relating to eligibility for benefits. All actions taken by the Committee as Plan Administrator, or its delegate, will be conclusive and binding on all persons having any interest under the Plan, subject only to the provisions of Article VII. All findings, decisions and determinations of any kind made by the Committee or its delegate shall not be disturbed unless the Committee has acted in an arbitrary and capricious manner.

9.03 Exercise of Authority. All resolutions or other actions taken by the Committee shall either: (a) be taken by a vote of a majority of those present at a meeting at which a majority of the members are present; or (b) be evidenced in a writing adopted by a majority of all the members in office at the time the action is taken if the Committee acts without a meeting.

9.04 Delegation of Authority. The Committee may delegate all or part of its responsibilities, authority and discretion under the Plan to other persons. The duties of the Committee under the Plan will be carried out in its name by the officers, directors and employees of the Company. Any such delegation shall carry with it the full discretion and authority vested in the Committee under Section 9.02. The Committee has delegated the day-to-day administration of the Plan to the Company’s Compensation Department under the direction of the Company’s senior officer with responsibility for Human Resources.

9.05 Reliance on Opinions. The members of the Committee and the officers and directors of the Company, and any employee of the Company who is charged with duties in connection with the administration of the Plan shall be entitled to rely on all certificates and reports made by any duly appointed accountants, and on all opinions given by any duly appointed legal counsel, including legal counsel for the Company.

9.06 Information. The Company shall supply full and timely information to the Committee on all matters relating to the compensation of Participants, the date and circumstances of the termination of employment or death of a Participant and such other pertinent information as the Committee may reasonably require.

9.07 Indemnification. The Company shall indemnify and hold harmless each Committee or Board member, and each Company employee performing services or acting in any capacity, from and with respect to the Plan against any and all expenses and liabilities arising in connection with services performed in regard to this Plan. Expenses against which such individual shall be indemnified hereunder shall include, without limitation, the amount of any settlement or judgment, costs, counsel fees and related charges reasonably incurred in connection with a claim asserted, or a proceeding brought or settlement thereof. The foregoing right of indemnification shall be in addition to any other rights to which any such individual may be entitled as a matter of law or other agreement.

ARTICLE X.

MISCELLANEOUS

10.01 No Employment Contract. The terms and conditions of the Plan shall not be deemed to constitute a contract of employment between the Company and an Executive. Nothing in this Plan shall be deemed to give an Executive the right to be retained in the service of the Company or to interfere with any right of the Company to discipline or discharge the Executive at any time.

10.02 Employee Cooperation. An Executive will cooperate with the Company by furnishing any and all information reasonably requested by the Company and take such other actions as may be requested to facilitate Plan administration and the payment of benefits hereunder.

10.03 Illegality and Invalidity. If any provision of this Plan is found illegal or invalid, said illegality or invalidity shall not affect the remaining parts hereof, but the Plan shall be construed and enforced as if such illegal and invalid provision had not been included herein.

10.04 Required Notice. Any notice which shall be or may be given under the Plan shall be in writing and shall be mailed by United States mail, postage prepaid. If notice is to be given to the Company, such notice shall be addressed to the Company c/o Compensation Department, 1700 Seventh Avenue, Suite 900, Seattle, Washington 98101-4407. If notice is to be given to a Participant, such notice shall be hand-delivered to the Participant or may be mailed to the last known address of the Participant on the Company's Human Resources records. Any party may, from time to time, change the address to which notices shall be mailed by giving written notice of such new address.

10.05 Interest of Participant's Beneficiary. The interest in the benefits hereunder of a spouse or Life Partner of a Participant who, at any time prior to the death of the Participant, ceases to be the spouse or Life Partner of the Participant (whether by death, dissolution, annulment,

separation, divorce or, in the case of a Life Partner, the termination of the life partnership), shall automatically pass to the Participant unless the spouse is required to be treated as the “Surviving Spouse” pursuant to a court order meeting the requirements of a Qualified Domestic Relations Order, applying rules analogous to those under Code Section 414(p). A former spouse may not transfer his or her interest in the Plan in any manner, including, but not limited to, by his or her will, nor shall such interest pass under the laws of intestate succession.

10.06 Tax Liabilities from Plan. If an Executive’s participation in this Plan generates a state or federal tax liability to the Participant prior to commencement of benefit payments (including a tax liability under Section 409A of the Code), the Committee may exercise its discretion to authorize a distribution of funds in an amount not to exceed the amount needed to satisfy such liability (including additions to tax, penalties and interest). A distribution under this provision is solely at the discretion of the Committee, and the Executive may not elect, directly or indirectly, to accelerate payment. The Executive’s tax liability shall be measured by using that Executive’s then current highest federal, state and local marginal tax rate, plus the rates or amounts for the applicable additions to tax, penalties and interest. Such a distribution shall affect and reduce the benefits to be paid under Articles III and V hereof.

10.07 Benefits Nonexclusive. The benefits provided for a Participant and Participant’s Beneficiary under the Plan are in addition to any other benefits available to such Participant under any other plan or program for employees of the Company. The Plan shall supplement and shall not supersede, modify or amend any other such plan or program except as may otherwise be expressly provided.

10.08 Discharge of Company Obligation. The payment of benefits under the Plan to a Participant or Beneficiary shall fully and completely discharge the Company, the Board, and the Committee from all further obligations under this Plan with respect to a Participant, and participation shall terminate upon such full payment of benefits.

10.09 Costs of Enforcement . If any action at law or in equity is necessary by the Committee or the Company to enforce the terms of the Plan, the Committee or the Company shall be entitled to recover reasonable attorneys’ fees, costs and necessary disbursements in addition to any other relief to which that party may be entitled.

10.10 Gender and Case. Unless the context clearly indicates otherwise, masculine pronouns shall include the feminine and singular words shall include the plural and vice versa.

10.11 Titles and Headings. Titles and headings of the Articles and Sections of the Plan are included for ease of reference only and are not to be used for the purpose of construing any portion or provision of the Plan document.

10.12 Applicable Law. To the extent not preempted by federal law, the Plan shall be governed by the laws of the State of Washington.

10.13 Counterparts. This instrument may be executed in one or more counterparts, each of which is legally binding and enforceable.

10.14 Definitions:

- (a) "Board" means the board of directors of Nordstrom, Inc.
- (b) "Code" means the Internal Revenue Code of 1986, as amended.
- (c) "Committee" means the Compensation, People and Culture Committee of the Board.

10.15 Code Section 409A: The Company intends that the Plan comply with the requirements of Code Section 409A and shall be operated and interpreted consistent with that intent. Notwithstanding the foregoing, the Company makes no representation that the Plan complies with Code Section 409A and shall have no liability to any Participant for any failure to comply with Code Section 409A.

This Plan is signed and adopted, pursuant to proper authority, this _____ day of _____, 2020.

EXHIBIT A TO FIRST AMENDMENT

Published CUSIP No.: 65566HAD3
 Tranche A Revolving Facility CUSIP No.: 65566HAE1
 Tranche B Revolving Facility CUSIP No.: 65566HAF8

\$800,000,000

REVOLVING CREDIT FACILITY

Dated as of September 26, 2018

among

NORDSTROM, INC.,
 as Borrower,

THE FINANCIAL INSTITUTIONS NAMED HEREIN,
 as Lenders,

BANK OF AMERICA, N.A.,
 as Agent, Swing Line Lender and an L/C Issuer,

WELLS FARGO BANK, NATIONAL ASSOCIATION,
 and
 U.S. BANK NATIONAL ASSOCIATION,
 as Co-Syndication Agents and L/C Issuers

BofA SECURITIES, INC.,
 WELLS FARGO SECURITIES, LLC
 and
 U.S. BANK NATIONAL ASSOCIATION,
 as Joint Lead Arrangers and Joint Bookrunners

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REVOLVING CREDIT AGREEMENT

REVOLVING CREDIT AGREEMENT, dated as of September 26, 2018 (as amended, supplemented or otherwise modified from time to time, the "Agreement"), by and among NORDSTROM, INC., a Washington corporation (the "Borrower"), the Lenders (defined herein), WELLS FARGO BANK, NATIONAL ASSOCIATION and U.S. BANK NATIONAL ASSOCIATION, as co-syndication agents (in such capacity, the "Syndication Agents") and L/C Issuers and BANK OF AMERICA, N.A., as administrative agent for the Lenders (in such capacity, and any successor in such capacity, the "Agent"), Swing Line Lender and an L/C Issuer. The Lenders, the Syndication Agents, the Agent, the L/C Issuers and the Swing Line Lender are collectively referred to herein as the "Lender Parties" and each individually as a "Lender Party."

RECITALS

WHEREAS, the Borrower has requested that the Lenders provide a new revolving credit facility in an aggregate amount of \$800,000,000 (the "Credit Facility") for the purposes hereinafter set forth;

WHEREAS, the Lenders have agreed to make the requested Credit Facility available to the Borrower on the terms and conditions hereinafter set forth; and

WHEREAS, this Agreement replaces in its entirety the Existing Credit Agreement.

NOW, THEREFORE, IN CONSIDERATION of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Article I.

DEFINITIONS AND RELATED MATTERS

1.1 **Definitions**

The following terms with initial capital letters have the following meanings:

“1998 Indenture” means that certain Indenture, dated as of March 11, 1998, between the Borrower and Wells Fargo Bank, National Association (formerly known as Norwest Bank Colorado, National Association), as Trustee, as in effect on the Closing Date.

“2007 Indenture” means that certain Indenture, dated as of December 3, 2007, between the Borrower and Wells Fargo Bank, National Association, as Trustee, as in effect on the Closing Date.

“2020 Senior Notes” means those \$600,000,000 8.750% Senior Secured Notes due 2025 issued by the Borrower pursuant to an indenture among the Borrower, the guarantors of such senior secured notes and Wells Fargo Bank, National Association, as trustee, such indenture to be dated as of the date of issue of the initial series of such senior secured notes.

“Absolute Rate” is defined in Section 2.2(b)(iii).

“Additional L/C Issuer Notice” means a certificate substantially in the form of Exhibit 2.19(m) or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent).

“Administrative Questionnaire” means an Administrative Questionnaire to be completed by each Lender in a form supplied by the Agent.

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

“Affiliate” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person. The term “control” means the possession, directly or indirectly, of the power, whether or not exercised, to direct or cause the direction of the management or policies of a Person, whether through the ownership of Capital Stock, by contract or otherwise, and the terms “controlled” and “common control” have correlative meanings. Unless otherwise indicated, “Affiliate” refers to an Affiliate of the Borrower. Notwithstanding the foregoing, in no event shall any Lender Party or any Affiliate of any Lender Party be deemed to be an Affiliate of the Borrower. For the avoidance of doubt, the parties agree that, as of the date hereof, 1700 Seventh L.P., a Washington limited partnership, is not an Affiliate of the Borrower.

“Agent” means Bank of America or any successor agent appointed in accordance with Section 8.6.

“Agent Fee Letter” means that certain letter agreement, dated as of August 28, 2018, among the Borrower, the Agent and MLPF&S regarding certain fees relating to this Agreement, as the same may be amended, supplemented or otherwise modified in writing from time to time by the Borrower, the Agent and MLPF&S.

“Agent’s Account” means the account, with respect to any currency, of the Agent identified as such on Schedule 9.5 with respect to such currency, or such other account with respect to such currency as the Agent may hereafter designate by notice to the Borrower and each Lender Party.

“Agent’s Office” means, with respect to any currency, the office of the Agent identified as such on Schedule 9.5 with respect to such currency, or such other office with respect to such currency as the Agent may hereafter designate by notice to the Borrower and each Lender Party.

“Agreement” means this Credit Agreement, as it may be amended or modified from time to time, including all Schedules and Exhibits.

“Applicable Law” means all applicable provisions of all (i) constitutions, treaties, statutes, laws, rules, regulations and ordinances of any Governmental Authority, (ii) Governmental Approvals and (iii) orders, decisions, judgments, awards and decrees of any Governmental Authority.

“Applicable Lending Office” means, with respect to any Lender, (i) in the case of any payment with respect to Euro-Dollar Rate Loans, such Lender’s Euro-Dollar Lending Office, (ii) in the case of any payment with respect to CDOR Rate Loans, such Lender’s CDOR Lending Office (iii) in the case of any payment with respect to Base Rate Loans or Bid Loans or any other payment under the Loan Documents, such Lender’s Domestic Lending Office.

“Applicable Margin” means, at any time, with respect to Facility Fees, Base Rate Loans, Euro-Dollar Rate Loans or CDOR Rate Loans, or Letter of Credit Fees, as applicable, the appropriate applicable percentage corresponding to the long term, senior, unsecured, non-credit enhanced debt rating of the Borrower in effect from time to time as shown below:

Level	Long Term, Senior, Unsecured, Non-Credit Enhanced Debt Rating of Borrower	Applicable Margin for Euro-Dollar Rate Loans and CDOR Rate Loans	Applicable Margin for Base Rate Loans	Applicable Margin for Facility Fees	Letter of Credit Fees	
					Standby Letters of Credit	Commercial Letters of Credit
I.	<p>≥ BBB from S&P or ³ Baa2 from Moody's or ³ BBB from Fitch</p>	1.85%	0.85%	0.40%	1.85%	0.925%
II.	<p>³ BBB- but < BBB from S&P or ³ Baa3 but < Baa2 from Moody's or ³ BBB- but < BBB from Fitch</p>	2.00%	1.00%	0.50%	2.00%	1.00%
III.	<p>< BBB- from S&P or < Baa3 from Moody's or < BBB- from Fitch or unrated by S&P, Moody's and Fitch</p>	2.40%	1.40%	0.60%	2.40%	1.20%

Notwithstanding the above, if at any time, (i) the Borrower has only two ratings and there is a split rating, the applicable level shall be based upon the level indicated by the higher of the two ratings unless there is a two or more level difference in the levels indicated by each of the two available ratings, in which case the level that is one level below the higher rating shall apply, or (ii) the Borrower has three ratings and there is a split rating such that (A) all three ratings fall in different levels, the applicable level shall be based upon the level indicated by the rating that is neither the highest nor the lowest of the three ratings, or (B) two of the three ratings fall in one level (the "Majority Level") and the third rating falls in a different level, the applicable level shall be based upon the level indicated by the Majority Level.

The credit ratings to be utilized for purposes of determining a Level hereunder are those assigned to the senior unsecured long-term debt of the Borrower without third-party credit enhancement, and any rating assigned to any other Debt of the Borrower shall be disregarded. The debt rating in effect at any date is the debt rating that is in effect at the close of business on such date. The Applicable Margin shall be determined and, if necessary, adjusted on the date (each, a "Determination Date") on which there is any change in the Borrower's debt ratings. Each Applicable Margin shall be effective from one Determination Date until the next Determination Date. Any adjustment in the Applicable Margin shall be applicable to all existing Euro-Dollar Rate Loans, all existing CDOR Rate Loans and all existing Base Rate Loans as well as any new Euro-Dollar Rate

Loans, any new CDOR Rate Loans and any new Base Rate Loans made. The Borrower shall notify the Agent in writing immediately upon any change in its debt ratings.

“Applicable Reference Rate” means, for any Euro-Dollar Rate Loan denominated in Dollars, the Interbank Offered Rate and for any CDOR Rate Loan, the CDOR Rate, as applicable.

“Applicable Time” means, with respect to any borrowings and payments in Canadian Dollars, the local time in the place of settlement for Canadian Dollars as may be determined by the Agent to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

“Approved Fund” means any Fund that is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender or (iii) an entity or an Affiliate of an entity that administers or manages a 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 in the form of Exhibit 9.6(b) or any other form (including an electronic documentation form generated by use of an electronic platform) approved by the Agent.

“Assuming Lender” is defined in Section 2.23(c).

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

“Bank of America” means Bank of America, N.A. or any successor thereto.

“Bankruptcy Code” means Title 11 of the United States Code (11 U.S.C. Section 101 et seq.), as amended, modified, succeeded or replaced from time to time.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (i) the Federal Funds Rate plus 1/2 of 1%, (ii) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate,” and (iii) the Euro-Dollar Rate for a one month Interest Period plus 1.0%; and if the Base Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. Notwithstanding the reference to the Euro-Dollar Rate in this definition, such rate is for reference only, and the Base Rate shall in no event include “match-

funding” of Loans using the Base Rate or cause such Loans to be subject to an interest period or adjustment of the rate due to taxes, Applicable Lending Office or the like; the unavailability of the Euro-Dollar Rate at any time shall result solely in the Base Rate being the higher of the other two rates.

“Base Rate Loan” means a Revolving Loan, or portion thereof, that bears interest by reference to the Base Rate. All Base Rate Loans shall be denominated in Dollars.

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

“BHC Act Affiliate” 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.

“Bid Loan” is defined in Section 2.2(a).

“Bid Loan Borrowing” is defined in Section 2.2(a).

“Bid Loan Note” means a Bid Loan Note made by the Borrower, in substantially the form of Exhibit 2.5(a)(iii), payable to a Tranche A Lender, evidencing the obligation of the Borrower to repay the Bid Loans made by such Tranche A Lender, and includes any Bid Loan Note issued in exchange or substitution therefor.

“Bid Loan Quote” is defined in Section 2.2(b)(ii).

“Bid Loan Quote Request” is defined in Section 2.2(b)(i).

“BofA Securities” means BofA Securities, Inc., in its capacity as joint lead arranger and joint bookrunner.

“Borrower” means Nordstrom, Inc., a Washington corporation, and its successors and permitted assigns.

“Borrower Account” means the account of the Borrower identified as such on Schedule 9.5, or such other account as the Borrower may hereafter designate by notice to the Agent, with the prior consent of the Agent (such consent not to be withheld, conditioned or delayed so long as the designation of such account would not prevent the Agent from satisfying its obligations hereunder in a timely manner).

“Borrower Materials” is defined in Section 5.1.

“Borrowing” means each of the following: (a) a borrowing of Swing Line Loans pursuant to Section 2.20 or (b) a contemporaneous borrowing of Loans of the same Type in the same currency.

“Business Day” means any day that (i) is not a Saturday, Sunday or other day on which commercial banks in Seattle, Washington, San Francisco, California or Charlotte, North Carolina are authorized or obligated to close, (ii) if the applicable Business Day relates to any Euro-Dollar Rate Loans, is a Euro-Dollar Business Day and (iii) if the applicable Business Day relates to any CDOR Rate Loans, is a CDOR Business Day.

“Canadian Defined Benefit Pension Plan” means a Canadian Pension Plan that contains or has ever contained a “defined benefit provision” as such term is defined in Section 147.1(1) of the Income Tax Act (Canada).

“Canadian Dollar Equivalent” means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in Canadian Dollars as determined by the Agent at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of Canadian Dollars with Dollars.

“Canadian Dollars” or “C\$” means the lawful currency of Canada.

“Canadian Pension Plan” means a pension plan or plan that is subject to applicable pension benefits legislation in any jurisdiction of Canada and that is organized and administered to provide pensions, pension benefits or retirement benefits for employees and former employees of any Loan Party or any Subsidiary thereof.

“Canadian Sanctions List” means the list of names subject to the Regulations Establishing a List of Entities made under subsection 83.05(1) of the Criminal Code (Canada), the Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism, the United Nations Al-Qaida and Taliban Regulations and/or the Special Economic Measures Act (Canada)

“Canadian Security Agreement” means the Canadian security agreement, dated as of the First Amendment Effective Date, executed in favor of the Agent by certain of the Loan Parties.

“Capital Stock” means, with respect to any Person, all (i) shares, interests, participations or other equivalents (howsoever designated) of capital stock and other equity or ownership interests of such Person and (ii) rights (other than debt securities convertible into capital stock or other equity interests), warrants or options to acquire any such capital stock or other equity interests.

“Capitalized Leases” means, as to any Person, all leases of such Person of real or personal property that in accordance with GAAP are or should be capitalized on the balance sheet of such Persons. The amount of any Capitalized Lease shall be the capitalized amount thereof as determined in accordance with GAAP.

“Cash Collateralize” means to pledge and deposit with or deliver to the Agent, for the benefit of the Agent, the L/C Issuers and the Tranche A Lenders, as collateral for L/C Obligations or obligations of Tranche A Lenders to fund participations in respect of L/C Obligations, cash or deposit account balances or, if an L/C Issuer benefitting from such collateral shall agree in its sole discretion, other credit support, in each case pursuant to documentation in form and substance satisfactory to (a) the Agent and (b) the applicable L/C Issuer. “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

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

“Cash Management Bank” means any Person in its capacity as a party to a Cash Management Agreement with the Borrower or any Subsidiary provided that (a) at the time such Person enters into such Cash Management Agreement, such Person is a Lender or an Affiliate of a Lender or (b) such Cash Management Agreement exists on the First Amendment Effective Date and such Person is a Lender or an Affiliate of a Lender on the First Amendment Effective Date.

“CDOR Business Day” means any day on which banks are open for foreign exchange business in Toronto, Ontario, Canada.

“CDOR Lending Office” means the office, branch or Affiliate of any Tranche B Lender described in such Tranche B Lender’s Administrative Questionnaire as its CDOR Lending Office or, subject to the terms hereof, such other office, branch or Affiliate as such Tranche B Lender may hereafter designate as its CDOR Lending Office by notice to the Borrower and the Agent.

“CDOR Rate” means, for any Interest Period with respect to any Tranche B Revolving Loan denominated in Canadian Dollars, the rate per annum equal to the Canadian Dollar Offered Rate (“CDOR”) (such rate representing the average of the annual yield rates applicable to Canadian banker’s acceptances at or about the time set out below), or a comparable successor rate which rate is approved by the Agent and agreed to by the Borrower, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Agent from time to time) at or about 10:00 a.m. (Toronto, Ontario time) on the date two (2) Business Days prior to the commencement of such Interest Period (or such other day as is generally treated as the rate fixing day by market practice in such interbank market, as determined by the Agent, with a term equivalent to such Interest Period; provided that to the extent such market practice is not administratively feasible for the Agent, then such other day as otherwise reasonably determined by the Agent); provided, further that (i) to the extent a comparable successor rate is approved by the Agent and agreed to by the Borrower in connection with the CDOR Rate, the approved rate shall be applied in a manner consistent with market practice; provided, further that to the extent such market practice is not administratively feasible for the Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Agent and (ii) if the CDOR Rate shall be less than 0.75%, such rate shall be deemed 0.75% for purposes of this Agreement.

“CDOR Rate Loan” means a Tranche B Revolving Loan, or portion thereof, that bears interest at a rate based on the “CDOR Rate” (and as to which a single Interest Period is applicable). All CDOR Rate Loans shall be denominated in Canadian Dollars.

“Change of Control” means that (a) a majority of the directors of the Borrower shall be Persons other than Persons (x) for whose election proxies shall have been solicited by the board of directors of the Borrower or for whose appointment or election is otherwise approved or ratified by the board of directors of the Borrower or (y) who are then serving as directors appointed by the board of directors to fill vacancies on the board of directors caused by death or resignation (but not by removal) or to fill newly-created directorships or (b) any “person” or “group” (as such terms are used in Sections 13(d) of the Securities Exchange Act of 1934), other than the Lineal Descendants, becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire whether such right is immediately exercisable or only after the passage of time), directly or indirectly, of Voting Stock of the Borrower (or other securities convertible into such Voting Stock) representing 50% or more of the combined voting power of all Voting Stock of the Borrower.

“Closing Date” means the date of this Agreement.

“Code” means the Internal Revenue Code of 1986 and the rules and regulations promulgated thereunder, as amended, modified, succeeded or replaced from time to time.

“Collateral” means a collective reference to all personal property with respect to which Liens in favor of the Agent, for the benefit of the Secured Parties, are granted or purported to be granted pursuant to

and in accordance with the terms of the Collateral Documents, but for the avoidance of doubt, excluding Excluded Property.

“Collateral Documents” means a collective reference to the Security Agreement, the Canadian Security Agreement, collateral access agreements and other security documents as may be executed and delivered by any Loan Party pursuant to the terms of Section 5.11 or any of the Loan Documents.

“Collateral Period” means the period beginning upon the occurrence of the Collateral Trigger Event and ending when the Collateral Release Event occurs.

“Collateral Release Event” means the first date, if any, that occurs after a Collateral Trigger Event, on which the following conditions are satisfied: (a) no Default shall exist, (b) the Ratings Condition shall have been satisfied, (c) the Borrower shall be in pro forma compliance with the Leverage Ratio set forth in Section 6.3(a), computed as of the most recent fiscal quarter end of the Borrower for which financial statements were required to be delivered pursuant to Section 5.1(a) or 5.1(b), and (d) the Agent shall have received a certificate executed by a Responsible Officer of the Borrower, confirming the satisfaction of the foregoing conditions and requesting that the Agent release all Liens.

“Collateral Trigger Event” means (a) the First Amendment Effective Date and (b) at any time after the First Amendment Effective Date, the failure of the Borrower to either (i) satisfy the Ratings Condition or (ii) comply with the Leverage Ratio set forth in Section 6.3(a); provided that a Collateral Trigger Event may occur more than once during the term of this Agreement.

“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.

“Compliance Certificate” is defined in Section 5.1(c).

“Consolidated Tangible Assets” means, as of any date of determination, the book value of total assets of the Borrower and its Subsidiaries on a consolidated basis, as determined in accordance with GAAP, excluding assets that are considered to be intangible assets under GAAP (including customer lists, goodwill, computer software, copyrights, trade names, trademarks, patents, franchises and licenses).

“Contingent Obligation” means, as to any Person, any obligation, direct or indirect, contingent or otherwise, of such Person which does or would reasonably be expected to result in the direct payment of money (i) with respect to any Debt or other obligation of another Person, including any direct or indirect guarantee of such Debt (other than any endorsement for collection in the ordinary course of business) or any other direct or indirect obligation, by agreement or otherwise, to purchase or repurchase any such Debt or obligation or any security therefor, or to provide funds for the payment or discharge of any such Debt or obligation (whether in the form of loans, advances, stock purchases, capital contributions or otherwise), (ii) to provide funds to maintain the financial condition of any other Person, (iii) to lease or purchase property, securities or services primarily for the purpose of assuring the holders of Debt or other obligations of another Person or (iv) otherwise to assure or hold harmless the holders of Debt or other obligations of another Person against loss in respect thereof. The amount of any Contingent Obligation shall be the greater of (a) the amount of the Debt or obligation guaranteed or otherwise supported thereby or (b) the maximum amount guaranteed or supported by the Contingent Obligation. The term “Contingent Obligation”, as used with respect to the Borrower or any Subsidiary, shall not include (1) the obligations of the Borrower or any Subsidiary under any obligation which the Borrower or such Subsidiary has or may have to sell to, repurchase from or indemnify the purchaser or other transferee with respect to accounts discounted, sold or in which an interest is otherwise transferred by the Borrower or any Subsidiary in the ordinary course of its business

(but any such other obligation shall be excluded only to the extent that such other obligation is for the benefit, directly or indirectly, of any Person that is a Wholly-Owned Subsidiary (direct or indirect) of the Borrower); (2) any obligation which a Subsidiary has or may have to sell to, repurchase from or indemnify the purchaser or other transferee with respect to accounts discounted, sold or in which an interest is otherwise transferred by the Borrower or such Subsidiary in the ordinary course of its business (but any such other obligation shall be excluded only to the extent that such obligation is for the benefit, directly or indirectly, of any Person that is a Wholly-Owned Subsidiary (direct or indirect) of the Borrower); (3) supply, service or licensing agreements between or among the Borrower or its Subsidiaries and any Affiliate(s), in each case, so long as such agreements comply with Section 6.6; (4) environmental indemnities routinely given as part of sale, lease or other disposition or acquisition of real estate, or (5) “indemnities” for attorneys’ fees and costs which are incidental to another transaction and/or damages arising from breach of the terms of such transaction.

“Contractual Obligation” means, as applied to any Person, any provision of any security issued by that Person or of any indenture, agreement or other instrument to which that Person is a party or by which it or any of the properties owned or leased by it is bound or otherwise subject.

“Controlled Group” means all members of a controlled group of corporations and all trades or businesses (irrespective of whether incorporated) that, together with the Borrower or any Subsidiary, are or were treated as a single employer under Section 414 of the Code.

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

“Debt” means, with respect to any Person, the aggregate amount of, without duplication: (i) all obligations for borrowed money (including, except as otherwise provided in subpart (iii) below, purchase money indebtedness) other than, with respect to Debt of the Borrower or any of its Subsidiaries, funds borrowed by the Borrower or any such Subsidiary from the Borrower or another such Subsidiary; (ii) all obligations evidenced by bonds, debentures, notes or other similar instruments; (iii) all obligations to pay the deferred purchase price of property or services, except trade accounts payable (which trade payables are deemed to include any consignment purchases) arising in the ordinary course of business that are not overdue; (iv) the principal portion of all obligations under (a) Capitalized Leases and (b) any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product of such Person where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an operating lease in accordance with GAAP; (v) all obligations of third parties secured by a Lien on any asset owned by such Person whether or not such obligation or liability is assumed; (vi) all obligations of such Person, contingent or otherwise, in respect of any letters of credit or bankers’ acceptances; (vii) all Contingent Obligations; (viii) the aggregate amount paid to, or borrowed by, such Person as of such date under a sale of receivables or similar transaction (regardless of whether such transaction is effected without recourse to such Person or in a manner that would not be reflected on the balance sheet of such Person in accordance with GAAP); (ix) all Debt of any partnership or unincorporated joint venture to the extent such Person is legally obligated with respect thereto; and (x) all net obligations with respect to interest rate protection agreements, foreign currency exchange agreements, commodity purchase or option agreements or other interest or exchange rate or commodity price hedging agreements.

“Debtor Relief Laws” means the Bankruptcy Code, the Bankruptcy and Insolvency Act (Canada), the Companies’ Creditors Arrangement Act (Canada), the Winding-Up and Restructuring Act (Canada), and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium,

rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States, Canada or other applicable jurisdictions from time to time in effect.

“Default” means any condition or event that, with the giving of notice or lapse of time or both, would, unless cured or waived, become an Event of Default.

“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 2.22(b), any Lender that (a) has failed to perform any of its funding obligations hereunder, including in respect of its Loans or participations in respect of Letters of Credit or Swing Line Loans, within three Business Days of the date required to be funded by it hereunder, unless the subject of a good faith dispute, (b) has notified the Borrower or the Agent in writing that it does not intend to comply with its funding obligations or has made a public statement to that effect with respect to its funding obligations hereunder or under other agreements generally in which it commits to extend credit, (c) has failed, within three Business Days after request by the Agent, to confirm in a manner satisfactory to the Agent that it will comply with its funding obligations hereunder, provided, that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon written confirmation from the Agent to such Lender and the Borrower that such Lender has confirmed in writing its intention to comply with all of its funding obligations hereunder, or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under the Bankruptcy Code or any similar proceeding under any other Applicable Law, (ii) had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or a custodian appointed for it, (iii) taken any action in furtherance of, or indicated its consent to, approval of or acquiescence in any such proceeding or appointment, or (iv) becomes 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 or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender; it being understood that if a Lender has been turned over to the FDIC (or a similar regulatory entity) for the purpose of sale or liquidation it shall be a Defaulting Lender. Any determination by the Agent that a Lender is a Defaulting Lender under one or more of clauses (a) through (d) above, and the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.22(b)) as of the date established therefor by the Agent in a written notice of such determination, which shall be delivered by the Agent to the Borrower, the L/C Issuers, the Swing Line Lender and each Lender promptly following such determination.

“Designated Jurisdiction” means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

“Dollar Equivalent” means, at any time, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in Canadian Dollars, the equivalent amount thereof in Dollars as determined by the Agent at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of Dollars with Canadian Dollars.

“Dollars” and “¢” mean lawful money of the United States of America.

“Domestic Lending Office” means the office, branch or Affiliate of any Lender described in such Lender’s Administrative Questionnaire as its Domestic Lending Office or such other office, branch or Affiliate

as the Lender may hereafter designate as its Domestic Lending Office for one or more Types of Loans by notice to the Borrower and the Agent.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of any political subdivision of the United States of America.

“EBITDAR” means, for any period, with respect to the Borrower and its consolidated Subsidiaries, Net Income plus, to the extent deducted in determining such Net Income, the sum of (a) Interest Expense, (b) income tax expense, (c) depreciation expense, (d) amortization expense, (e) Rent Expense, (f) non-recurring, non-cash charges (including goodwill or other impairment charges) in an aggregate principal amount not to exceed \$100,000,000 during the term of this Agreement and (g) non-cash charges (including goodwill or other impairment charges) related to acquisitions, in each case as determined in accordance with GAAP.

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

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

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

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Sections 9.6(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 9.6(b)(iii)).

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

“ERISA Event” means (i) (a) the occurrence of a reportable event, within the meaning of Section 4043(c) of ERISA, with respect to any Plan unless the 30-day notice requirement with respect to such event has been waived by the PBGC (provided that a reportable event arising from the disqualification of a Plan or the distress termination of a Plan under ERISA Section 4041(c) shall be deemed to be an ERISA Event without regard to any waiver of notice by the PBGC by regulation or otherwise), or (b) the requirements of subsection (1) of Section 4043(b) of ERISA (without regard to subsection (2) of such Section) are met with respect to a contributing sponsor, as defined in Section 4001(a)(13) of ERISA, of a Plan, and an event described in paragraph (9), (10), (11), (12) or (13) of Section 4043(c) of ERISA is reasonably expected to occur with respect to such Plan within the following 30 days; (ii) the minimum required contribution (as defined in Section 430(a) of the Code) to each Plan, and the minimum contribution required under Section 412 of the Code have not been timely contributed with respect to a Plan; (iii) the provision by the administrator of a Plan of a notice of intent to terminate such Plan pursuant to Section 4041(a)(2) of ERISA (including any such notice with respect to a plan amendment referred to in Section 4041(e) of ERISA); (iv) the cessation of operations at a facility of the Borrower or any member of the Controlled Group in the circumstances described in Section 4062(e) of ERISA; (v) the withdrawal by the Borrower or any member of the Controlled Group from a Plan during a plan year for which it was a substantial employer, as defined in Section 4001(a)

(2) of ERISA; (vi) the adoption of an amendment to a Plan requiring the provision of security to such Plan pursuant to Section 307 of ERISA; or (vii) the institution by the PBGC of proceedings to terminate a Plan pursuant to Section 4042 of ERISA, or the occurrence of any event or condition described in Section 4042 of ERISA that constitutes grounds for the termination of, or the appointment of a trustee to administer, a Plan.

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

“Euro-Dollar Business Day” means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

“Euro-Dollar Lending Office” means the office, branch or Affiliate of any Lender described in such Lender’s Administrative Questionnaire as its Euro-Dollar Lending Office or, subject to the terms hereof, such other office, branch or Affiliate as such Lender may hereafter designate as its Euro-Dollar Lending Office by notice to the Borrower and the Agent.

“Euro-Dollar Rate” means, (a) for any Interest Period with respect to any Euro-Dollar Rate Loan, a rate per annum determined by the Agent to be equal to the quotient obtained by dividing (i) the Interbank Offered Rate for such Euro-Dollar Rate Loan for such Interest Period by (ii) one minus the Euro-Dollar Reserve Requirement for such Euro-Dollar Rate Loan for such Interest Period and (b) for any day with respect to any Base Rate Loan the interest rate on which is determined by reference to the Euro-Dollar Rate, a rate per annum determined by the Agent to be equal to the quotient obtained by dividing (i) the Interbank Offered Rate for such Base Rate Loan for such day by (ii) one minus the Euro-Dollar Reserve Requirement for such Base Rate Loan for such day.

“Euro-Dollar Rate Loan” means a Revolving Loan, or portion thereof, that bears interest at a rate based on clause (a) of the definition of “Euro-Dollar Rate” (and as to which a single Interest Period is applicable) but such term excludes any Base Rate Loan on which the Base Rate is determined based on the Euro-Dollar Rate under the definition of Base Rate or any Bid Loan. All Euro-Dollar Rate Loans shall be denominated in Dollars.

“Euro-Dollar Reserve Requirement” means, for any day during any Interest Period, the reserve percentage (expressed as a decimal, carried out to five decimal places) in effect on such day, whether or not applicable to any Lender, under regulations issued from time to time by the Federal Reserve Board for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as “Eurocurrency liabilities”). The Euro-Dollar Rate for each outstanding Euro-Dollar Rate Loan shall be adjusted automatically as of the effective date of any change in the Euro-Dollar Reserve Requirement.

“Event of Default” means any of the events specified in Section 7.1.

“Excluded Property” means, with respect to any Loan Party, (a) any owned or leased real property, and for the avoidance of doubt, any Fixtures related to the foregoing, (b) any Intellectual Property for which a perfected Lien thereon is not effected either by filing of a UCC or PPSA financing statement or by appropriate evidence of such Lien being filed in either the United States Copyright Office, the United States Patent and Trademark Office or the Canadian Intellectual Property Office, (c) any personal property (other than personal property described in clause (b) above or clause (d) below) for which the attachment or perfection of a Lien thereon is not governed by the UCC or the PPSA, (d) the Capital Stock of any Subsidiary directly or indirectly owned by any Loan Party, (e) any property which is subject to a Lien of the type described in Section 6.1(e).

pursuant to documents that prohibit such Loan Party from granting any other Liens in such property, and (f) motor vehicles and other assets subject to certificates of title.

“Excluded Swap Obligation” means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guaranty of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act (determined after giving effect to any “keepwell, support or other agreement” for the benefit of such Guarantor and any and all guarantees of such Guarantor’s Swap Obligations by other Loan Parties) at the time the Guaranty of such Guarantor, or a grant by such Guarantor of a security interest, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guaranty or security interest is or becomes excluded in accordance with the first sentence of this definition.

“Excluded Tax” means, with respect to any payment to any Lender Party, (i) any taxes imposed on or measured by the overall net income (including a franchise tax based on net income) of such Lender Party or its Agent’s Office or Applicable Lending Office in respect of which the payment is made, by any Governmental Authority in the jurisdiction in which it is incorporated, maintains its principal executive office or in which such Agent’s Office or Applicable Lending Office is located, and (ii) any U.S. federal withholding taxes imposed under FATCA.

“Existing Credit Agreement” means that certain Revolving Credit Agreement, dated as of April 1, 2015, by and among the Borrower, the financial institutions party thereto as lenders thereunder and Bank of America, N.A., as administrative agent for such lenders, as it has been amended, supplemented or otherwise modified from time to time.

“Existing Liens” means the Liens described on Schedule 1.1(a).

“Extending Lender” is defined in Section 2.23(b).

“Extension Date” is defined in Section 2.23(b).

“Facility Fee” is defined in Section 2.6(a).

“Facility Termination Date” means the date as of which all of the following shall have occurred: (a) all Revolving Commitments have terminated, (b) all Obligations have been paid in full (other than contingent indemnification obligations), and (c) all Letters of Credit have terminated or expired (other than Letters of Credit that have been Cash Collateralized in accordance with Section 2.21).

“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any applicable intergovernmental agreements implementing the foregoing.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, 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, (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 Bank of America on such day on such transactions as determined by the Agent and (c) if the Federal Funds Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement.

“Federal Reserve Board” means the Board of Governors of the Federal Reserve System, or any successor thereto.

“Fees” means, collectively, the fees defined in or referenced in Section 2.6.

“First Amendment Effective Date” means April 16, 2020.

“Fiscal Year” means the fiscal year of the Borrower, which shall be the twelve month period ending on January 31 in each year or such other period as the Borrower may designate and the Agent may approve in writing. “Fiscal Quarter” or “fiscal quarter” means any quarter of a Fiscal Year.

“Fitch” means Fitch Ratings Inc. and any successor thereto.

“Fixtures” shall have the meaning set forth in the definition of “Mortgaged Property”.

“Foreign Lender” means any Lender that is not a U.S. Person.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“Fronting Exposure” means, at any time there is a Defaulting Lender, (a) with respect to any L/C Issuer, such Defaulting Lender’s Revolving Commitment Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Tranche A Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swing Line Lender, such Defaulting Lender’s Revolving Commitment Percentage of Swing Line Loans other than Swing Line Loans as to which such Defaulting Lender’s participation obligation has been reallocated to other Tranche A Lenders in accordance with the terms hereof.

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

“Funded Debt” means, with respect to the Borrower and its Subsidiaries, on a consolidated basis, the aggregate amount of, without duplication: (i) all obligations for borrowed money (including, except as otherwise provided in subpart (iii) below, purchase money indebtedness) other than funds borrowed by the Borrower or any Subsidiary from the Borrower or another Subsidiary; (ii) all obligations evidenced by bonds, debentures, notes or other similar instruments; (iii) all obligations to pay the deferred purchase price of property or services, except trade accounts payable (which trade payables are deemed to include any consignment purchases) arising in the ordinary course of business that are not overdue; (iv) the principal portion of all obligations under (a) Capitalized Leases and (b) any synthetic lease, tax retention operating lease, off-balance sheet loan or similar off-balance sheet financing product of the Borrower or any of its Subsidiaries where such transaction is considered borrowed money indebtedness for tax purposes but is classified as an operating lease in accordance with GAAP; (v) all obligations of others secured by a Lien on

any asset owned by the Borrower or any of its Subsidiaries whether or not such obligation or liability is assumed; and (vi) the aggregate amount paid to, or borrowed by, the Borrower or any of its Subsidiaries as of such date under a sale of receivables or similar transaction (regardless of whether such transaction is effected without recourse to the Borrower or any of its Subsidiaries or in a manner that would not be reflected on the balance sheet of the Borrower or any of its Subsidiaries in accordance with GAAP, but expressly not including sales of credit card accounts, associated receivables and related assets in connection with a credit card program agreement).

“Funding Date” means any date on which a Loan or an L/C Credit Extension, as applicable, is (or is requested to be) made.

“GAAP” means generally accepted accounting principles as in effect in the United States of America from time to time and applied on a consistent basis.

“Governmental Approval” means an authorization, consent, approval, permit or license issued by, or a registration, qualification or filing with, any Governmental Authority.

“Governmental Authority” means any nation and any state, provincial or political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and any tribunal or arbitrator of competent jurisdiction.

“Guarantors” means, collectively, (a) the Material Subsidiaries of the Borrower listed on Schedule 4.1 and each other Material Subsidiary of the Borrower that shall be required to execute and deliver a Joinder Agreement pursuant to Section 5.9 and (b) with respect to (i) Obligations owing by any Loan Party or any Subsidiary of a Loan Party (other than the Borrower) under any Swap Contract or any Cash Management Agreement and (ii) the payment and performance by each Loan Party of its obligations under its Guaranty with respect to all Swap Obligations, the Borrower; provided, that, in no event shall PropCo or any of its Subsidiaries be a “Guarantor”.

“Guaranty” means the Guaranty Agreement, dated as of the First Amendment Effective Date, made by the Guarantors in favor of the Agent, for the benefit of the Secured Parties.

“Hedge Bank” means any Person that, (a) at the time it enters into a Swap Contract permitted under Article V or VI, is a Lender or an Affiliate of a Lender, in its capacity as a party to such Swap Contract or (b) such Swap Contract exists on the First Amendment Effective Date and such Person is a Lender or an Affiliate of a Lender on the First Amendment Effective Date.

“Honor Date” has the meaning set forth in Section 2.19(c).

“Indemnitees” is defined in Section 9.2.

“Information” is defined in Section 9.13.

“Initial L/C Issuers” means Bank of America, Wells Fargo Bank, National Association and U.S. Bank National Association in their capacity as L/C Issuers.

“Intellectual Property” is defined in Section 4.18.

“Interbank Offered Rate” means:

(a) For any Interest Period with respect to a Euro-Dollar Rate Loan, the rate per annum equal to the London Interbank Offered Rate (“LIBOR”), or a comparable successor rate which rate is approved by the Agent and agreed to by the Borrower, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Agent from time to time) (in such case, the “LIBOR Rate”) at or about 11:00 a.m., London time, two (2) Euro-Dollar Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(a) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to the LIBOR Rate, at or about 11:00 a.m., London time, two (2) Euro-Dollar Business Days prior to such date for Dollar deposits with a term of one (1) month commencing that day;

provided that: (i) to the extent a comparable successor rate is approved by the Agent, and agreed to by the Borrower, in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further that to the extent such market practice is not administratively feasible for the Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Agent and (ii) if the Euro-Dollar Rate shall be less than 0.75%, such rate shall be deemed 0.75% for purposes of this Agreement.

“Interest Expense” means the consolidated interest expense (including the amortization of debt discount and premium, the interest component under Capitalized Leases and the implied interest component under synthetic leases, tax retention operating leases, off-balance sheet loans or similar off-balance sheet financing products) of the Borrower and its Subsidiaries, as determined in accordance with GAAP.

“Interest Period” means, subject to the conditions set forth below:

(i) with respect to each Euro-Dollar Rate Loan, the period commencing on the Funding Date specified in the related Notice of Borrowing or Notice of Conversion/Continuation and ending (subject to availability to all Tranche A Lenders or all Tranche B Lenders, as applicable) one, two, three or six months thereafter, as the Borrower may elect, as applicable;

(ii) with respect to any Bid Loan, the period commencing on the Funding Date specified in the related Bid Loan Quote Request and ending on any Business Day not less than seven and not more than 30 days thereafter, as the Borrower may request as provided in Section 2.2(b)(i); and

(iii) with respect to any CDOR Rate Loan, the period commencing on the Funding Date specified in the related Notice of Borrowing or Notice of Conversion/Continuation and ending (subject to availability to all Tranche B Lenders) one, two, three or six months thereafter, as the Borrower may elect, as applicable.

Notwithstanding the foregoing: (a) if a Euro-Dollar Rate Loan or CDOR Rate Loan is continued, the Interest Period applicable to the continued Euro-Dollar Rate Loan or CDOR Rate Loan, as applicable shall commence on the day on which the Interest Period applicable to such Euro-Dollar Rate Loan or CDOR Rate Loan, as applicable, ends; (b) any Interest Period applicable to a Euro-Dollar Rate Loan or CDOR Rate Loan, as applicable, (1) that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day, unless such succeeding Business Day falls in another calendar month, in which case such Interest Period shall

end on the next preceding Business Day or (2) 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; and (c) no Interest Period shall end after the Maturity Date.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Capital Stock of another Person (other than a Person that becomes a wholly-owned Subsidiary) or (b) a loan, advance or capital contribution to, guarantee or assumption of debt of, or purchase or other acquisition of any other debt or interest in, another Person (including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor guaranties Indebtedness of such other Person, but excluding any acquisition of all of the Capital Stock, or all or substantially all of the assets, of a Person). For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“IRS” means the United States Internal Revenue Service.

“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 applicable L/C Issuer and the Borrower (or any Subsidiary) or in favor of the applicable L/C Issuer and relating to such Letter of Credit.

“Joinder Agreement” means a joinder agreement substantially in the form of Exhibit 5.9 executed and delivered in accordance with the provisions of Section 5.9.

“L/C Advance” means, with respect to each Tranche A Lender, such Tranche A Lender’s funding of its participation in any L/C Borrowing in accordance with its Revolving Commitment Percentage. All L/C Advances shall be denominated in Dollars.

“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 Borrowing of Tranche A Revolving Loans. All L/C Borrowings shall be denominated in Dollars.

“L/C Commitment” means, as to each Initial L/C Issuer, its obligation to issue Letters of Credit to the Borrower pursuant to Section 2.19 in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite its name on Schedule 2.3, as such amount may be adjusted from time to time in accordance with this Agreement.

“L/C Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

“L/C Issuer” means with respect to a particular Letter of Credit, (a) each Initial L/C Issuer in its capacity as issuer of such Letter of Credit, (b) such other Tranche A Lender selected by the Borrower (upon notice to the Agent) from time to time to issue such Letter of Credit (provided that no Tranche A Lender shall be required to become an L/C Issuer pursuant to this subclause (b) without such Tranche A Lender’s consent), or any successor issuer of Letters of Credit hereunder or (c) any Tranche A Lender selected by the

Borrower (with the consent of the Agent) to replace a Tranche A Lender who is a Defaulting Lender at the time of such Tranche A Lender's appointment as an L/C Issuer (provided that no Tranche A Lender shall be required to become an L/C Issuer pursuant to this subclause (c) without such Tranche A Lender's consent), or any successor issuer of Letters of Credit hereunder.

"L/C Obligations" means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.3. 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.

"Lead Arranger" means each of BofA Securities, Wells Fargo Securities, LLC and U.S. Bank National Association, in their capacity as joint lead arrangers and joint bookrunners.

"Lender" means each of those banks and other financial institutions identified as such on the signature pages hereto and such other institutions that may become Lenders pursuant to Section 9.6(b) or Section 2.18 and, as the context requires, the Swing Line Lender and/or each L/C Issuer. The term "Lender" shall include the Tranche A Lenders and/or the Tranche B Lenders, as applicable.

"Lender Party" means each of the Lenders, the Agent, the Syndication Agents and the documentation agent and managing agent identified on the cover page hereto.

"Letter of Credit" means any letter of credit issued hereunder. A Letter of Credit may be a commercial letter of credit or a standby letter of credit; provided, however, that any commercial letter of credit issued hereunder shall provide solely for cash payment upon presentation of a sight draft and any other required documents. Letters of Credit shall be issued in Dollars.

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a letter of credit in the form from time to time in use by the applicable L/C Issuer.

"Letter of Credit Expiration Date" means the day that is five Business Days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

"Letter of Credit Fee" has the meaning specified in Section 2.19(h).

"Letter of Credit Report" means a report substantially in the form of Exhibit 2.19(l) or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent).

"Letter of Credit Sublimit" means an amount equal to the lesser of (a) the Tranche A Revolving Committed Amount and (b) \$100,000,000. The Letter of Credit Sublimit is part of, and not in addition to, the Tranche A Revolving Committed Amount.

"Leverage Ratio" is defined in Section 6.3.

"Lien" means any lien, mortgage, pledge, security interest, charge, hypothec or encumbrance of any kind (including any conditional sale or other title retention agreement or any lease in the nature thereof) and

any agreement to give any lien, mortgage, pledge, security interest, charge, or other encumbrance of any kind.

“Lineal Descendants” means the individuals listed on Schedule 1.1(b) hereto and the spouse and lineal descendants of any such individual.

“Liquidity” means, as of any date of determination, the sum of (a) the unrestricted cash on hand of the Loan Parties plus (b) customer credit card accounts receivable of the Borrower and its Subsidiaries plus (c) availability under the Revolving Commitment.

“Loan” means an extension of credit by a Lender to the Borrower under Article 2 in the form of a Tranche A Revolving Loan, a Tranche B Revolving Loan or a Swing Line Loan.

“Loan Documents” means, collectively, this Agreement, the Notes, each Issuer Document, the Guaranty, the Collateral Documents, each Joinder Agreement, any agreement creating or perfecting rights in Cash Collateral pursuant to Section 2.21 and any other agreement, instrument or other writing executed or delivered by the Borrower in connection herewith, and all amendments, exhibits and schedules to any of the foregoing.

“Loan Parties” means, collectively, the Borrower and each Guarantor.

“Margin Regulations” means Regulations T, U and X of the Federal Reserve Board, as amended from time to time, or any successor regulations.

“Margin Stock” means “margin stock” as defined in the Margin Regulations.

“Material Adverse Effect” or “Material Adverse Change” means (i) a material adverse effect on or (ii) a material adverse change in, as the case may be, any one or more of the following: (A) the business, assets, liabilities, results of operations or condition (financial or otherwise) of the Borrower and its Subsidiaries taken as a whole or (B) the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party or (C) the actual material rights and remedies of any Lender Party under any Loan Document.

“Material Contractual Obligation” means a Contractual Obligation, the violation of which could reasonably be expected to have a Material Adverse Effect.

“Material Subsidiary” means (a) each “Significant Subsidiary” of the Borrower within the meaning of Regulation S-X of the Securities Exchange Act of 1934 and (b) each other Subsidiary that owns (i) any Intellectual Property, (ii) one percent (1%) or more of the total inventory of the Borrower and its Subsidiaries or (iii) one percent (1%) or more of the total accounts receivable of the Borrower and its Subsidiaries.

“Maturity Date” means September 26, 2023, subject to the extension thereof pursuant to Section 2.23; provided, however, that the Maturity Date of any Lender that is a Non-Extending Lender to any requested extension pursuant to Section 2.23 shall be the Maturity Date in effect immediately prior to the applicable Extension Date for all purposes of this Agreement; provided, further, that, in each case, if such date is not a Business Day, the Maturity Date shall be the immediately preceding Business Day.

“MLPF&S” means Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker dealer wholly owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related

businesses may be transferred following the date of this Agreement), in its capacity as joint lead arranger and joint bookrunner.

“Moody’s” means Moody’s Investors Service, Inc. and any successor or assignee of the business of such company in the business of rating debt.

“Mortgaged Property” means, with respect to the Borrower or any of its Subsidiaries, to the extent pledged to secure obligations under Debt incurred pursuant to Section 6.9(g), (i) any owned or leased real estate asset of such Person (the “Land”); (ii) all improvements now owned or hereafter acquired by such Person, now or at any time situated, placed or constructed upon the Land (the “Improvements”; the Land and Improvements are collectively referred to as the “Premises”); (iii) all materials, supplies, equipment, apparatus and other items of personal property now owned or hereafter acquired by such Person and now or hereafter attached to, installed in or used in connection with any of the Improvements or the Land, and water, gas, electrical, telephone, storm and sanitary sewer facilities and all other utilities whether or not situated in easements (the “Fixtures”); (iv) all right, title and interest of such Person in and to all goods, accounts, general intangibles, instruments, documents, chattel paper and all other personal property of any kind or character, including such items of personal property as defined in the UCC (defined below), now owned or hereafter acquired by such Person and now or hereafter affixed to, placed upon, used in connection with, arising from or otherwise related to the Premises (the “Personalty”); (v) all reserves, escrows or impounds required under any applicable credit agreement, indenture or similar agreement and all deposit accounts maintained by such Person with respect to the Mortgaged Property; (vi) all leases, licenses, concessions, occupancy agreements or other agreements (written or oral, now or at any time in effect) which grant to any Person (other than such Person) a possessory interest in, or the right to use, all or any part of the Mortgaged Property, together with all related security and other deposits subject to depositors rights and requirements of law (the “Leases”); (vii) all of the rents, revenues, royalties, income, proceeds, profits, security and other types of deposits subject to depositors rights and requirements of law, and other benefits paid or payable by parties to the Leases for using, leasing, licensing, possessing, operating from, residing in, selling or otherwise enjoying the Mortgaged Property; (viii) to the extent mortgageable or assignable all other agreements, such as construction contracts, architects’ agreements, engineers’ contracts, utility contracts, maintenance agreements, management agreements, service contracts, listing agreements, guaranties, warranties, permits, licenses, certificates and entitlements in any way relating to the construction, use, occupancy, operation, maintenance, enjoyment or ownership of the Mortgaged Property; (ix) to the extent mortgageable or assignable all rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages and appurtenances appertaining to the foregoing; (x) all property tax refunds payable to such Person; (xi) all accessions, replacements and substitutions for any of the foregoing and all proceeds thereof; (xii) all insurance policies, unearned premiums therefor and proceeds from such policies covering any of the above property now or hereafter acquired by such Person (the “Insurance”); (xiii) all rights (including, without limitation, alley, drainage, crop, mineral, mining, coal, water, sand, oil and gas rights, and any other rights to produce or share in the production of anything from or attributable thereto), title and interest of such Person in and to the Mortgaged Property, and any and all privileges, royalties and appurtenances to the Mortgaged Property, now or hereafter belonging or in any way pertaining thereto, and all as-extracted collateral produced from or allocated to the Mortgaged Property, including, without limitation, minerals, coal, oil, gas and other hydrocarbons and all products processed or obtained therefrom, and the proceeds thereof; and (xiv) all of such Person’s right, title and interest in and to any awards, damages, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to the Land, Improvements, Fixtures or Personalty.

“Mortgages” means mortgages, deeds of trust or deeds to secure debt that purport to grant to a Person a security interest in the fee interests and/or leasehold interests of the Borrower or any Subsidiary in any real property.

“Multiemployer Plan” means a multiemployer plan, as defined in Section 4001(a)(3) of ERISA.

“Net Income” means, for any period with respect to the Borrower and its consolidated Subsidiaries, net income (or net loss), excluding the effect of extraordinary or other non-recurring gains and losses, as determined in accordance with GAAP.

“Non-Consenting Lender” is defined in Section 9.19.

“Non-Extending Lender” is defined in Section 2.23(b).

“Note” means a Tranche A Revolving Loan Note, Tranche B Revolving Loan Note, Bid Loan Note or Swing Line Note.

“Notice of Borrowing” is defined in Section 2.1(c)(i).

“Notice of Conversion/Continuation” is defined in Section 2.4(b)(ii).

“Notice of Loan Prepayment” means a notice of prepayment with respect to a Loan, which shall be substantially in the form of Exhibit 2.8(c) or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent), appropriately completed and signed by a Responsible Officer.

“Notice of Responsible Officers” is defined in Section 2.1(c)(iii).

“Obligations” means (a) all present and future obligations and liabilities of any Loan Party of every type and description arising under or in connection with the Loan Documents due or to become due to the Lender Parties or any Person entitled to indemnification under the Loan Documents, or any of their respective successors, transferees or assigns, whether for principal, interest, Fees, expenses, indemnities or other amounts (including attorneys’ fees and expenses) and (b) all obligations of any Loan Party or any Subsidiary owing to a Cash Management Bank or a Hedge Bank in respect of Secured Cash Management Agreements or Secured Hedge Agreements, in each case identified in clauses (a) and (b), whether due or not due, direct or indirect, joint and/or several, absolute or contingent, voluntary, or involuntary, liquidated or unliquidated, determined or undetermined, and whether now or hereafter existing, renewed or restructured; provided that, without limiting the foregoing, the Obligations of a Loan Party shall exclude any Excluded Swap Obligations with respect to such Loan Party.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Organization Documents” means, (a) with respect to any corporation, the charter or certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement or limited liability company agreement (or equivalent or comparable documents with respect to any non-U.S. jurisdiction); (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction) and (d) with respect to all entities, any agreement, instrument, filing or notice with respect

thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization (or equivalent or comparable documents with respect to any non-U.S. jurisdiction).

“Overnight Rate” means, for any day, (a) with respect to any amount denominated in Dollars, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Agent, the L/C Issuer, or the Swing Line Lender, as the case may be, in accordance with banking industry rules on interbank compensation, and (b) with respect to any amount denominated in Canadian Dollars, the rate of interest per annum at which overnight deposits in Canadian Dollars, in an amount approximately equal to the amount with respect to which such rate is being determined, would be offered for such day by a branch or Affiliate of Bank of America in the applicable offshore interbank market for Canadian Dollars to major banks in such interbank market.

“Participant” is defined in Section 9.6(d).

“Participant Register” is defined in Section 9.6(d).

“PBGC” means the Pension Benefit Guaranty Corporation, as defined in Title IV of ERISA, or any successor.

“Permitted Liens” means, with respect to any asset, the Liens (if any) permitted to exist on such asset in accordance with Section 6.1.

“Permitted Refinancing Debt” shall mean any Debt issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund (collectively, to “Refinance”), the Debt being Refinanced (or previous refinancings thereof constituting Permitted Refinancing Debt); provided that (a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Debt does not exceed the principal amount (or accreted value, if applicable) of the Debt so Refinanced (plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions, expenses, plus an amount equal to any existing commitment unutilized thereunder and letters of credit undrawn thereunder), (b) if the Debt being Refinanced is secured by Liens on any Specified Assets, such Permitted Refinancing Debt may be secured by all or any portion of the Specified Assets or may be unsecured and (c) if the Debt being refinanced is unsecured, such Permitted Refinancing Debt shall be unsecured unless such Debt is otherwise permitted to be incurred on a secured basis by Sections 6.1 and 6.9.

“Person” means an individual, a corporation, a partnership, a limited liability company, a trust, an unincorporated organization or any other entity or organization, including a government or any agency or political subdivision thereof.

“Plan” means, at any time, any employee pension benefit plan that is covered by Title IV of ERISA or subject to the minimum funding standards under Section 430 of the Code and that is either (i) maintained by the Borrower or any member of a Controlled Group for employees of the Borrower or such Controlled Group or was formerly so maintained and in respect of which the Borrower or any member of the Controlled Group could have liability under Section 4069 of ERISA in the event such plan has been or were to be terminated or (ii) maintained for employees of the Borrower or any member of the Controlled Group and at least one Person other than the Borrower and the members of the Controlled Group or was formerly so maintained and in respect of which the Borrower or any member of the Controlled Group could have liability under Section 4064 or 4069 of ERISA in the event such plan has been or were to be terminated.

“Platform” is defined in Section 5.1.

“Post-Default Rate” means (a) when used with respect to Obligations other than Letter of Credit Fees, (i) with respect to all Base Rate Loans and any other amounts (other than then outstanding Euro-Dollar Rate Loans and CDOR Rate Loans) owing hereunder not paid when due, a rate per annum equal at all times to the rate otherwise applicable to Base Rate Loans plus 2.00% per annum, and (ii) with respect to each then outstanding Euro-Dollar Rate Loan and each then outstanding CDOR Rate Loan, a rate per annum equal at all times to the rate otherwise applicable to such Euro-Dollar Rate Loan or such CDOR Rate Loan, as applicable, plus 2.00% per annum and (b) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Margin plus 2.00% per annum.

“PPSA” means the Personal Property Security Act (Ontario); provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Personal Property Security Act as in effect in a Canadian jurisdiction other than the Province of Ontario, or the Civil Code of Quebec, “PPSA” means the Personal Property Security Act as in effect from time to time in such other jurisdiction or the Civil Code of Quebec, as applicable, for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

“PropCo” means Nordstrom Real Estate Holdings, LLC, a Delaware limited liability company.

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

“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 specified in Section 9.22.

“Ratings Condition” means the attainment by the Borrower of a long term, senior, unsecured, non-credit enhanced debt rating of BBB- (stable) or better from S&P and Baa3 (stable) or better from Moody’s.

“Recipient” means the Agent, any Lender, and any L/C Issuer, as applicable.

“Register” is defined in Section 9.6(c).

“Regulation D” means Regulation D of the Federal Reserve Board, as amended from time to time.

“Regulatory Change” means (i) the adoption or becoming effective after the date hereof of any treaty, law, rule or regulation, (ii) any change in any such treaty, law, rule or regulation (including Regulation D), or any change in the administration or enforcement thereof, by any Governmental Authority, central bank or other monetary authority charged with the interpretation or administration thereof, in each case after the date hereof, or (iii) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Regulatory Change”, regardless of the date enacted, adopted or issued.

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors, consultants, service providers and representatives of such Person and of such Person’s Affiliates.

“Relevant Governmental Body” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York for the purpose of recommending a benchmark rate to replace the Applicable Reference Rates in loan agreements similar to this Agreement.

“Rent Expense” means the consolidated rent expense of the Borrower and its Subsidiaries, as determined in accordance with GAAP.

“Required Lenders” means Lenders having more than 50% of the Revolving Commitments or, if the Revolving Commitments have terminated, Lenders holding more than 50% of the aggregate unpaid principal amount of the Loans, L/C Obligations and (without duplication) participations therein. The Revolving Commitments of, and the outstanding Loans, L/C Obligations and (without duplication) participations therein held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders for as long as such Lender is a Defaulting Lender.

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

“Responsible Officer” is defined in Section 2.1(c)(iii).

“Restricted Payment” means (i) any dividend or other distribution, direct or indirect, on account of any Capital Stock of the Borrower or any Subsidiary now or hereafter outstanding, except (a) a dividend or other distribution payable solely in shares or equivalents of Capital Stock of the same class as the Capital Stock on account of which the dividend or distribution is being paid or made and (b) the issuance of equity interests upon the exercise of outstanding warrants, options or other rights, or (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any Capital Stock of the Borrower or any Subsidiary now or hereafter outstanding.

“Revaluation Date” means with respect to any Tranche B Revolving Loan denominated in Canadian Dollars, each of the following: (a) each date of a Borrowing of a CDOR Rate Loan, (b) each date of a continuation of a CDOR Rate Loan pursuant to Section 2.4, and (c) such additional dates as the Agent shall determine or the Tranche B Required Lenders shall require.

“Revolving Commitment” means the Tranche A Revolving Commitments and/or the Tranche B Revolving Commitments, as applicable.

“Revolving Commitment Percentage” means, with respect to any Lender at any time (a) with respect to such Tranche A Lender’s Tranche A Revolving Commitment, the percentage identified on Schedule 1.1(c) opposite such Lender’s name or as set forth in the Assignment and Assumption or in any other documentation described in Section 2.18 pursuant to which such Tranche A Lender becomes a party hereto, in each case, as such percentage may be modified in accordance with the terms hereof; provided that the Revolving Commitment Percentage of such Tranche A Lender shall be subject to adjustment as provided in Section 2.22 and (b) with respect to such Tranche B Lender’s Tranche B Revolving Commitment, the percentage identified on Schedule 1.1(c) opposite such Lender’s name or as set forth in the Assignment and Assumption, in each case, as such percentage may be modified in accordance with the terms hereof; provided that the

Revolving Commitment Percentage of such Tranche B Lender shall be subject to adjustment as provided in Section 2.22

“Revolving Commitment Termination Date” is defined in Section 2.7(a).

“Revolving Committed Amount” means the Tranche A Revolving Committed Amount and/or the Tranche B Revolving Committed Amount, as applicable.

“Revolving Loans” means the Tranche A Revolving Loans and/or the Tranche B Revolving Loans, as applicable.

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

“Sale and Leaseback Transaction” means, with respect to the Borrower or any Subsidiary, any arrangement, directly or indirectly, with any Person whereby the Borrower or such Subsidiary shall sell or transfer any property used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred.

“Same Day Funds” means (a) with respect to disbursements and payments in Dollars, immediately available funds, and (b) with respect to disbursements and payments in Canadian Dollars, same day or other funds as may be determined by the Agent to be customary in the place of disbursement or payment for the settlement of international banking transactions in Canadian Dollars.

“Sanction(s)” means any sanction administered or enforced by the United States Government (including, without limitation, OFAC), the Canadian Government, the United Nations Security Council, the European Union, Her Majesty’s Treasury (“HMT”) or other relevant sanctions authority.

“Screen Rate” means the Applicable Reference Rate quote for an applicable currency on the applicable screen page the Agent designates to determine such Applicable Reference Rate for such applicable currency (or such other commercially available source providing such quotations for such applicable currency as may be designated by the Agent from time to time).

“SEC” means the United States Securities and Exchange Commission, and any successor thereto.

“Secured Cash Management Agreement” means any Cash Management Agreement that is entered into by and between the Borrower or any Subsidiary and any Cash Management Bank.

“Secured Hedge Agreement” means any Swap Contract that is entered into by and between the Borrower or any Subsidiary and any Hedge Bank.

“Secured Parties” means, collectively, the Agent, the Lenders, the L/C Issuers, the Hedge Banks, the Cash Management Banks, each co-agent or sub-agent appointed by the Agent from time to time pursuant to Section 8.5, and the other Persons the Obligations owing to which are or are purported to be secured by the Collateral under the terms of the Collateral Documents.

“Secured Party Designation Notice” means a notice from any Lender or an Affiliate of a Lender substantially in the form of Exhibit 8.11.

“Security Agreement” means the security agreement, dated as of the First Amendment Effective Date, executed in favor of the Agent by each of the Loan Parties.

“Senior Officer” means, with respect to any Loan Party, the president; the chief executive officer; the chief financial officer; the chief accounting officer; or comparable officers or managers of such Loan Party.

“SOFR” with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator) on the Federal Reserve Bank of New York’s website and that has been selected or recommended by the Relevant Governmental Body.

“SOFR-Based Rate” means SOFR or Term SOFR.

“Solvent” and “Solvency” mean, with respect to any Person as of a particular date, that on such date (i) such Person is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (ii) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay as such debts and liabilities mature in their ordinary course, (iii) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person’s assets would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged or is about to engage, (iv) the fair value of the assets of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person and (v) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Specified Assets” means (a) any Mortgaged Property and (b) the Capital Stock of PropCo or any of its Subsidiaries, in each case, whether now owned or hereafter acquired and all products of any or all of the foregoing in whatever form received, including proceeds of business interruption and other insurance and claims against third parties.

“Spot Rate” for Canadian Dollars means the rate determined by the Agent to be the rate quoted by the Agent as the spot rate for the purchase by such Person of Canadian Dollars with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Agent may obtain such spot rate from another financial institution designated by the Agent if the Agent does not have as of the date of determination a spot buying rate for Canadian Dollars.

“Subsidiary” means, with respect to any Person, any other Person of which more than 50% of the Voting Stock is at the time directly or indirectly owned by such first Person. Unless otherwise indicated, “Subsidiary” refers to a Subsidiary of the Borrower.

“Successor Rate” is defined in Section 2.12(c).

“Successor Rate Conforming Changes” means, with respect to any proposed Successor Rate for an applicable currency, any conforming changes to the definition of Base Rate, Interest Period, timing and frequency of determining rates and making payments of interest and other technical, administrative or

operational matters as may be appropriate, in the discretion of the Agent, to reflect the adoption and implementation of such Successor Rate and to permit the administration thereof by the Agent in a manner substantially consistent with market practice for such applicable currency (or, if the Agent determines that adoption of any portion of such market practice for such applicable currency is not administratively feasible or that no market practice for the administration of such Successor Rate for such applicable currency exists, in such other manner of administration as the Agent determines is reasonably necessary in connection with the administration of this Agreement). For the avoidance of doubt, such Successor Rate Conforming Changes shall not include a change to the Applicable Margin or any Facility Fee unless expressly agreed by Borrower.

“Supported QFC” has the meaning specified in Section 9.22.

“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 Obligations” 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.

“Swing Line Commitment” means, as to the Swing Line Lender, its obligation to make Swing Line Loans pursuant to Section 2.20 in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite the Swing Line Lender’s name on Schedule 2.20, as such amount may be adjusted from time to time in accordance with this Agreement.

“Swing Line Lender” means Bank of America 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 2.20(a).

“Swing Line Loan Notice” means a notice of a Borrowing of Swing Line Loans pursuant to Section 2.20(b), which, if in writing, shall be substantially in the form of Exhibit 2.20 or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent).

“Swing Line Note” means a Swing Line Note made by the Borrower, in substantially in the form of Exhibit 2.5(a)(iv), payable to the Swing Line Lender, evidencing the obligation of the Borrower to repay the Swing Line Loans made by the Swing Line Lender and includes any Swing Line Note issued in exchange or substitution therefor.

“Swing Line Sublimit” means an amount equal to the lesser of (a) \$75,000,000 and (b) the Tranche A Revolving Committed Amount. The Swing Line Sublimit is part of, and not in addition to, the Tranche A Revolving Committed Amount.

“Syndication Agents” means Wells Fargo Bank, National Association and U.S. Bank National Association, or any successors thereto.

“Taxes” means any income, stamp, excise, property and other taxes, charges, fees, levies, duties, imposts, withholdings or other assessments, together with any interest and penalties, additions to tax and additional amounts imposed by any federal, state, provincial, local or foreign taxing authority upon any Person.

“Term SOFR” means the forward-looking term rate for any period that is approximately (as determined by the Agent) as long as any of the Interest Period options set forth in the definition of “Interest Period” and that is based on SOFR and that has been selected or recommended by the Relevant Governmental Body, in each case as published on an information service as selected by the Agent from time to time in its reasonable discretion.

“Tranche A Lender” means each Lender with a Tranche A Revolving Commitment.

“Tranche A Required Lenders” means Tranche A Lenders having more than 50% of the Tranche A Revolving Commitments or, if the Tranche A Revolving Commitments have terminated, Tranche A Lenders holding more than 50% of the aggregate unpaid principal amount of the Tranche A Revolving Loans, Swing Line Loans, L/C Obligations and (without duplication) participations therein. The Tranche A Revolving Commitments of, and the outstanding Tranche A Revolving Loans, Swing Line Loans, L/C Obligations and (without duplication) participations therein held by, any Defaulting Lender shall be excluded for purposes of making a determination of Tranche A Required Lenders for as long as such Tranche A Lender is a Defaulting Lender.

“Tranche A Revolving Commitment” means, with respect to each Tranche A Lender, its obligation to (a) make Tranche A Revolving Loans to the Borrower pursuant to Section 2.1(a)(i), (b) purchase participations in L/C Obligations 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 for such Tranche A Lender on Schedule 1.1(c) or as set forth in the Assignment and Assumption or in any other documentation described in Section 2.18 pursuant to which such Tranche A Lender becomes a party hereto, in each case, as modified or terminated from time to time pursuant to the terms hereof.

“Tranche A Revolving Committed Amount” means FIVE HUNDRED FIFTY MILLION DOLLARS (\$550,000,000), as such amount may be reduced in accordance with Section 2.7 or increased in accordance with Section 2.18.

“Tranche A Revolving Credit Exposure” means, as to any Tranche A Lender at any time, the aggregate principal amount at such time of its Tranche A Revolving Loans and such Tranche A Lender’s participation in Letters of Credit and Swing Line Loans at such time.

“Tranche A Revolving Loan Note” means a Tranche A Revolving Loan Note made by the Borrower, in substantially in the form of Exhibit 2.5(a)(i), payable to a Tranche A Lender, evidencing the obligation of the Borrower to repay the Tranche A Revolving Loans made by such Tranche A Lender and includes any Tranche A Revolving Loan Note issued in exchange or substitution therefor.

“Tranche A Revolving Loans” is defined in Section 2.1(a)(i).

“Tranche B Lender” means each Lender with a Tranche B Revolving Commitment.

“Tranche B Required Lenders” means Tranche B Lenders having more than 50% of the Tranche B Revolving Commitments or, if the Tranche B Revolving Commitments have terminated, Tranche B Lenders holding more than 50% of the aggregate unpaid principal amount of the Tranche B Revolving Loans. The Tranche B Revolving Commitments of, and the outstanding Tranche B Revolving Loans held by, any Defaulting Lender shall be excluded for purposes of making a determination of Tranche B Required Lenders for as long as such Tranche B Lender is a Defaulting Lender.

“Tranche B Revolving Commitment” means, with respect to each Tranche B Lender, its obligation to (a) make Tranche B Revolving Loans to the Borrower pursuant to Section 2.1(a)(ii), in an aggregate principal amount at any one time outstanding not to exceed the amount set forth for such Tranche B Lender on Schedule 1.1(c) or as set forth in the Assignment and Assumption, in each case, as modified or terminated from time to time pursuant to the terms hereof.

“Tranche B Revolving Committed Amount” means TWO HUNDRED FIFTY MILLION DOLLARS (\$250,000,000), as such amount may be reduced in accordance with Section 2.7.

“Tranche B Revolving Loan Note” means a Tranche B Revolving Loan Note made by the Borrower, in substantially in the form of Exhibit 2.5(a)(ii), payable to a Tranche B Lender, evidencing the obligation of the Borrower to repay the Tranche B Revolving Loans made by such Tranche B Lender and includes any Tranche B Revolving Loan Note issued in exchange or substitution therefor.

“Tranche B Revolving Loans” is defined in Section 2.1(a)(ii).

“Type” means, with respect to any Loan, its character as a Base Rate Loan, Euro-Dollar Rate Loan or CDOR Rate Loan.

“UCC” means the Uniform Commercial Code as in effect in the State of New York; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, “UCC” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

“UCP” means the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce.

“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.

“Unreimbursed Amount” has the meaning specified in Section 2.19(c)(i).

“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 specified in Section 9.22.

“U.S. Tax Compliance Certificate” has the meaning specified in Section 2.16(d)(ii)(B)(III).

“Voting Stock” means Capital Stock issued by a corporation, or equivalent interests in any other Person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right to so vote has been suspended by the happening of such a contingency.

“Wholly-Owned” means, with respect to any Subsidiary, that all the Capital Stock (except for directors’ qualifying shares) of such Subsidiary are directly or indirectly owned by the Borrower.

“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.

1.2 Related Matters

(a) Construction. Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, the singular includes the plural, the part includes the whole, “including” is not limiting, and “or” has the inclusive meaning represented by the phrase “and/or.” The words “hereof,” “hereto,” “hereby,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole (including the Preamble, the Recitals, the Schedules and the Exhibits) and not to any particular provision of this Agreement. References in this Agreement to “Articles,” “Sections,” “Subsections,” “Exhibits,” “Schedules,” “Recitals” and “Preambles” are to this Agreement unless otherwise specified. References in this Agreement to any agreement, other document or law “as amended” or “as amended from time to time,” or to amendments of any document or law, shall include any amendments, supplements, replacements, renewals, waivers or other modifications. References in this Agreement to any law (or any part thereof) include any rules and regulations promulgated thereunder (or with respect to such part) by the relevant Governmental Authority, as amended from time to time.

(b) Determinations. Any determination or calculation contemplated by this Agreement that is made by any Lender Party in good faith and reasonably shall be final and conclusive and binding upon the Loan Parties and, in the case of determinations by the Agent, also the other Lender Parties, in the absence of manifest error. All consents and other actions of any Lender Party contemplated by this Agreement may be given, taken, withheld or not taken in such Lender Party’s discretion (whether or not so expressed), except as otherwise expressly provided herein.

(c) Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared on a consolidated basis in accordance with GAAP. In the event that any “Accounting Change” (as defined below) shall occur and such change results in a material change in the resulting financial covenants, standards or terms in this Agreement, then the Borrower and the Lender Parties agree to enter into negotiations in order to amend such provisions of this Agreement so as to equitably reflect such Accounting Changes with the desired result that the criteria for evaluating the Borrower’s financial condition shall be the same after such Accounting Changes as they would be if such Accounting Changes had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrower, the Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred. “Accounting Changes” refers to changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants or, if applicable, the SEC or any regulator of financial institutions or financial institution holding companies. For purposes of determining compliance with any covenant contained herein, whether a lease constitutes a capitalized lease, and whether obligations arising under such lease are required to be capitalized on the balance sheet of the lessee thereunder and/or recognized as interest expense in such lessee’s financial statements, shall be determined in accordance with GAAP as in effect on February 3, 2018 notwithstanding any modification or interpretive change occurring thereafter.

(d) Governing Law and Submission to Jurisdiction.

(i) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS (OTHER THAN THE RULES REGARDING CONFLICTS OF LAWS) OF THE STATE OF NEW YORK.

(ii) EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE AGENT, ANY LENDER, ANY L/C ISSUER, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT AS EXPRESSLY SET FORTH THEREIN) OR THE TRANSACTIONS RELATING HERETO OR

THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE 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, LITIGATION 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. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE AGENT, ANY LENDER OR ANY L/C ISSUER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY RELEVANT JURISDICTION.

(e) Headings. The Article and Section headings used in this Agreement are for convenience of reference only and shall not affect the construction hereof.

(f) Severability. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable under Applicable Law in any jurisdiction, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability, which shall not affect any other provisions hereof or the validity, legality or enforceability of such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 1.2(f), if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by the Bankruptcy Code or any similar Applicable Law, as determined in good faith by the Agent, the L/C Issuer or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

(g) Time. All references to time herein shall be references to Pacific Standard Time or Pacific Daylight Time, as the case may be, unless specified otherwise.

(h) Divisions. Any reference herein to a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

1.3 Letter of Credit Amounts

Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

1.4 Exchange Rates; Currency Equivalents

(a) The Agent shall determine the Spot Rates as of each Revaluation Date to be used for calculating Dollar Equivalent amounts of Tranche B Revolving Loans denominated in Canadian Dollars. Such Spot Rates shall become effective as of such Revaluation Date and shall be the Spot Rates employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur. Except for purposes of financial statements delivered by the Borrower hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of Canadian Dollars for purposes of the Loan Documents shall be such Dollar Equivalent amount as so determined by the Agent.

(b) Wherever in this Agreement in connection with a Borrowing, continuation or prepayment of a CDOR Rate Loan, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such CDOR Rate Loan is denominated in Canadian Dollars, such amount shall be the Canadian Dollar Equivalent of such Dollar amount (rounded to the nearest unit of Canadian Dollars, with 0.5 of a unit being rounded upward), as determined by the Agent.

(c) The Agent does not warrant, nor accept responsibility, nor shall the Agent have any liability with respect to the administration, submission or any other matter related to the rates in the definition of "Euro-Dollar Rate", "CDOR Rate" or with respect to any rate that is an alternative or replacement for or successor to any of such rates (including, without limitation, any Successor Rate) or the effect of any of the foregoing, or of any Successor Rate Conforming Changes.

ARTICLE II.

AMOUNTS AND TERMS OF THE CREDIT FACILITIES

2.1 Revolving Loans

(a) General Terms.

(i) Each Tranche A Lender severally agrees, upon the terms and subject to the conditions set forth in this Agreement, at any time from and after the Closing Date until the Business Day next preceding the Revolving Commitment Termination Date, to make revolving loans in Dollars (each a "Tranche A Revolving Loan") to the Borrower; provided that (A) the sum of all Tranche A Revolving Loans outstanding plus all Bid Loans outstanding plus all L/C Obligations outstanding plus all Swing Line Loans outstanding shall not exceed the Tranche A Revolving Committed Amount and (B) with respect to each individual Tranche A Lender, such Tranche A Lender's pro rata share of outstanding Tranche A Revolving Loans plus such Tranche A Lender's pro rata share of outstanding L/C Obligations plus such Tranche A Lender's pro rata share of outstanding Swing Line Loans shall not exceed such Tranche A Lender's Revolving Commitment Percentage of the Tranche A Revolving Committed Amount.

(ii) Each Tranche B Lender severally agrees, upon the terms and subject to the conditions set forth in this Agreement, at any time from and after the Closing Date until the Business Day next preceding the Revolving Commitment Termination Date, to make revolving loans in Dollars or Canadian Dollars (each a "Tranche B Revolving Loan") to the Borrower; provided that (A) the sum of all Tranche B Revolving Loans outstanding shall not exceed the Tranche B Revolving Committed Amount and (B) with respect to each individual Tranche B Lender, such Tranche B Lender's pro rata share of outstanding Tranche B Revolving Loans shall not exceed such Tranche B Lender's Revolving Commitment Percentage of the Tranche B Revolving Committed Amount.

(iii) Revolving Loans may be voluntarily prepaid pursuant to Section 2.8(c) and, subject to the provisions of this Agreement, any amounts so prepaid or otherwise repaid in accordance with their terms may be re-borrowed, up to the amount available under this Section 2.1 at the time of such reborrowing.

(b) Type of Loans and Amounts.

(i) Loans made under this Section 2.1 that are denominated in Dollars may be Base Rate Loans or Euro-Dollar Rate Loans, subject, however, to Sections 2.4(c) and 2.12. Loans made under this Section 2.1 that are denominated in Canadian Dollars shall be CDOR Rate Loans, subject, however, to Sections 2.4(c) and 2.12.

(ii) Except as provided in Sections 2.19(c) and 2.20(c), each Borrowing of Revolving Loans shall be in a minimum aggregate amount of \$1,000,000 and integral multiples of \$100,000 in excess thereof, in the case of a Borrowing of Base Rate Loans, or a minimum aggregate amount of \$5,000,000 and integral multiples of \$1,000,000 in excess thereof, in the case of a Borrowing of Euro-Dollar Rate Loans and CDOR Rate Loans.

(c) Notice of Borrowing.

(i) When the Borrower desires to borrow Revolving Loans pursuant to this Section 2.1, it shall provide irrevocable notice to the Agent, which may be given by (x) telephone or (y) a Notice of Borrowing substantially in the form of Exhibit 2.1(c) or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent), duly completed and executed by a Responsible Officer (a "Notice of Borrowing"); provided that any telephonic notice to the Agent must be confirmed promptly by delivery to the Agent of a Notice of Borrowing. Each such Notice of Borrowing (or telephonic notice) must be received by (A) no later than 10:00 a.m. on the proposed Funding Date, in the case of a Borrowing of Base Rate Loans, (B) no later than 10:00 a.m. at least three Euro-Dollar Business Days before the proposed Funding Date, in the case of a Borrowing of Euro-Dollar Rate Loans or (C) no later than 10:00 a.m. at least three CDOR Business Days before the proposed Funding Date, in the case of a Borrowing of CDOR Rate Loans.

(ii) No Lender Party shall incur any liability to the Borrower or the other Lender Parties in acting upon any telephonic notice that such Lender Party believes to have been given by a Responsible Officer or for otherwise acting in good faith under this Section 2.1 and in making any Loan in accordance with this Agreement pursuant to any telephonic notice and, upon funding of Revolving Loans by any Lender in accordance with this Agreement pursuant to any such telephonic notice, the Borrower shall have effected Revolving Loans hereunder.

(iii) The Borrower shall notify the Agent of the names of its officers and employees authorized to request and take other actions with respect to Loans and Letters of Credit on behalf of the Borrower (each a "Responsible Officer") by providing the Agent with a Notice of Responsible Officers substantially in the form of Exhibit 2.1(c)(iii) duly completed and executed by a Senior Officer (a "Notice of Responsible Officers") or by designating such Responsible Officers in or pursuant to an agreement between the Borrower and the Agent. The Agent shall be entitled to rely conclusively on a Responsible Officer's authority to request and take other actions with respect to Loans and Letters of Credit on behalf of the Borrower until the Agent receives a new Notice of Responsible Officers that no longer designates such Person as a Responsible Officer.

(iv) Any Notice of Borrowing (or telephonic notice) delivered pursuant to this Section 2.1 shall be irrevocable and, subject to Section 2.12(a), the Borrower shall be bound to make a Borrowing in accordance therewith.

(v) The Agent shall promptly notify each Tranche A Lender and/or each Tranche B Lender, as applicable, of the contents of any Notice of Borrowing (or telephonic notice) received by it, and such Lender's pro rata portion of the Borrowing requested. Prior to 11:00 a.m. on the date specified in such notice as the Funding Date, each Tranche A Lender or Tranche B Lender, as applicable, subject to the terms and conditions hereof, shall make its pro rata portion of the Borrowing available, in the applicable currency and in Same Day Funds, to the Agent at the Agent's Account.

(d) Funding. Not later than 1:00 p.m. on the applicable Funding Date or such later time as may be agreed to by the Borrower and the Agent, and subject to and upon satisfaction of the applicable conditions set forth in Article 3 as determined by the Agent, the Agent shall, upon receipt of the proceeds of the requested Loans, make such proceeds available to the Borrower in the applicable currency in Same Day Funds in the Borrower Account; provided, however, that if, on the date of a Borrowing of Tranche A Revolving Loans, there are L/C Borrowings outstanding, then the proceeds of such Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings and second, shall be made available to the Borrower as provided above.

(e) Several Obligations; Funding by Lenders; Presumption by Agent. The obligations of the Lenders hereunder to make Revolving Loans, to fund participations in Letters of Credit and Swing Line Loans, if applicable, and to make payments pursuant to Section 9.2(b) are several and not joint. The failure of any Lender to make any Revolving Loan, to fund any such participation, if applicable, or to make any payment under Section 9.2(b) 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 Revolving Loan, to purchase its participation or to make its payment under Section 9.2(b). Unless the Agent shall have received notice from a Lender prior to the proposed date of any borrowing of Euro-Dollar Rate Loans or CDOR Rate Loans (or, in the case of any borrowing of Base Rate Loans, prior to 11:00 a.m. on the date of such borrowing) that such Lender will not make available to the Agent such Lender's share of such Revolving Loan, the Agent may assume that such Lender has made such share available on such date in accordance with Section 2.1(c) (or, in the case of a borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.1(c)) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable borrowing available to the Agent, then the applicable Lender agrees to pay to the Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Agent at the Overnight Rate. If such Lender has not paid such amount to the Agent within two Business Days following the Agent's demand therefor, then the Borrower agrees to pay to the Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Agent at the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay interest to the Agent for the same or an overlapping period, the Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Revolving Loan to the Agent, then the amount so paid shall constitute such Lender's Revolving Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Agent. A notice of the Agent to any Lender or the Borrower with respect to any amount owing under this subsection (e) shall be conclusive, absent manifest error.

2.2 Bid Loans

(a) General Terms. At any time prior to the Business Day immediately preceding the Revolving Commitment Termination Date, the Borrower may request the Tranche A Lenders to make offers to make bid loans to the Borrower (each a "Bid Loan"); provided that (i) the sum of all Bid Loans outstanding plus all Tranche A Revolving Loans outstanding plus all Swing Line Loans outstanding plus all L/C Obligations outstanding shall not exceed the Tranche A Revolving Committed Amount; (ii) the aggregate amount of Bid Loans requested for any Funding Date and with the same Interest Period (each a "Bid Loan Borrowing") shall be at least \$2,000,000 and in integral multiples of \$1,000,000 in excess thereof; and (iii) all Interest Periods applicable to Bid Loans shall be subject to Section 2.4(c). The Tranche A Lenders may, but shall have no obligation to, make such offers, and the Borrower may, but shall have no obligation to, accept any such offers in the manner set forth in this Section 2.2.

(b) Bid Loan Procedures.

(i) When the Borrower wishes to request offers to make Bid Loans, it shall provide telephonic notice to the Agent (which shall promptly notify the Tranche A Lenders) followed promptly by written notice substantially in the form of Exhibit 2.2(b)(i), or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent), duly completed and executed by a Responsible Officer (a "Bid Loan Quote Request"), so as to be received no later than 10:00 a.m. on the second Business Day before the proposed Funding Date (or such other time and date as the Borrower and the Agent, with the consent of the Tranche A Required Lenders, may agree). Subject to Section 2.4(c), the Borrower may request offers for up to three different Bid Loan Borrowings in a single Bid Loan Quote Request, in which case such Bid Loan Quote Request shall be deemed a separate Bid Loan Quote Request for each such Borrowing. Except as otherwise provided in this Section 2.2, no Bid Loan Quote Request shall be given within five Business Days (or such other number of days as the Borrower and the Agent, with the consent of the Tranche A Required Lenders, may agree) of any other Bid Loan Quote Request.

(ii) Each Tranche A Lender may, but shall not be obligated to, in response to any Bid Loan Quote Request submit one or more written quotes substantially in the form of Exhibit 2.2(b)(ii), or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent), duly completed (each a "Bid Loan Quote"), each containing an offer to make a Bid Loan for the Interest Period requested and setting forth the Absolute Rate to be applicable to the Bid Loan; provided that (A) a Tranche A Lender may make a single submission containing one or more Bid

Loan Quotes in response to several Bid Loan Quote Requests given at the same time; and (B) the principal amount of the Bid Loan for which each such offer is being made shall be at least \$2,000,000 and multiples of \$1,000,000 in excess thereof; provided that the aggregate principal amount of all Bid Loans for which a Tranche A Lender submits Bid Loan Quotes (1) may be greater or less than the Revolving Commitment of such Tranche A Lender but (2) may not exceed the principal amount of the Bid Loan Borrowing for which offers were requested. Each Bid Loan Quote by a Tranche A Lender other than the Agent must be submitted to the Agent by fax not later than 8:00 a.m. on the Funding Date (or such other time and date as the Borrower and the Agent, with the consent of the Tranche A Required Lenders, may agree); provided that any Bid Loan Quote may be submitted by the Agent, in its capacity as a Tranche A Lender, only if the Agent notifies the Borrower of the terms of the offer contained therein not later than 7:45 a.m. on the Funding Date. Subject to Sections 3 and 7.2, any Bid Loan Quote so made shall be irrevocable except with the consent of the Agent given on the instructions of the Borrower. Unless otherwise agreed by the Agent and the Borrower, no Bid Loan Quote shall contain qualifying, conditional or similar language or propose terms other than or in addition to those set forth in the applicable Bid Loan Quote Request and, in particular, no Bid Loan Quote may be conditioned upon acceptance by the Borrower of all (or some specified minimum) of the principal amount of the Bid Loan for which such Bid Loan Quote is being made.

(iii) The Agent shall, as promptly as practicable after any Bid Loan Quote is submitted (but in any event not later than 8:30 a.m. on the Funding Date, or 7:45 a.m. on the Funding Date with respect to any Bid Loan Quote submitted by the Agent, in its capacity as a Tranche A Lender), notify the Borrower of the terms (A) of any Bid Loan Quote submitted by a Tranche A Lender that is in accordance with Section 2.2(b)(ii) and (B) of any Bid Loan Quote that amends, modifies or is otherwise inconsistent with a previous Bid Loan Quote submitted by such Tranche A Lender with respect to the same Bid Loan Quote Request. Any subsequent Bid Loan Quote shall be disregarded by the Agent unless the subsequent Bid Loan Quote is submitted solely to correct a manifest error in a former Bid Loan Quote. The Agent's notice to the Borrower shall specify (1) the aggregate principal amount of the Bid Loan Borrowing for which offers have been received and (2) (A) the respective principal amounts and (B) the rates of interest (which shall be expressed as an absolute number and not in terms of a specified margin over the quoting Tranche A Lender's cost of funds) (the "Absolute Rate") so offered by each Tranche A Lender (identifying the Tranche A Lender that made each such Bid Loan Quote).

(iv) Not later than 9:00 a.m. on the Funding Date (or such other time and date as the Borrower and the Agent, with the consent of each Tranche A Lender that has submitted a Bid Loan Quote may agree), the Borrower shall notify the Agent of its acceptance or nonacceptance of the offers so notified to it pursuant to Section 2.2(b)(iii) (and the failure of the Borrower to give such notice by such time shall constitute nonacceptance), and the Agent shall promptly notify each affected Tranche A Lender. In the case of acceptance, such notice shall specify the aggregate principal amount of offers for each Interest Period that are accepted. The Borrower may accept any Bid Loan Quote in whole or in part; provided that (A) any Bid Loan Quote accepted in part shall be at least \$1,000,000 and multiples of \$1,000,000 in excess thereof; (B) the aggregate principal amount of each Bid Loan Borrowing may not exceed the applicable amount set forth in the related Bid Loan Quote Request; (C) the aggregate principal amount of each Bid Loan Borrowing shall be at least \$2,000,000 and multiples of \$1,000,000 and shall not cause the limits specified in Section 2.2(a) to be violated; (D) acceptance of offers may be made only in ascending order of Absolute Rates, beginning with the lowest rate so offered; and (E) the Borrower may not accept any offer where the Agent has advised the Borrower that such offer fails to comply with Section 2.2(b)(ii) or otherwise fails to comply with the requirements of this Agreement (including Section 2.2(a)). If offers are made by two or more Tranche A Lenders with the same Absolute Rates for a greater aggregate principal amount than the amount in respect of which offers are accepted for the related Interest Period, the principal amount of Bid Loans in respect of which such offers are accepted shall be allocated by the Borrower among such Tranche A Lenders as nearly as possible (in amounts of at least \$1,000,000 and multiples of \$500,000 in excess thereof) in proportion to the aggregate principal amount of such offers. Determinations by the Borrower of the amounts of Bid Loans shall be conclusive in the absence of manifest error. Notwithstanding anything else contained herein, the Borrower shall have no obligation to accept any Bid Loan Quote by a Defaulting Lender.

(v) Subject to the terms set forth in this Agreement, any Tranche A Lender whose offer to make any Bid Loan has been accepted shall, prior to 10:00 a.m. on the date specified for the making of such Loan, make the amount of such Loan available to the Agent at the Agent's Account in Same Day Funds, for the account of the Borrower. The amount so received by the Agent shall, subject to the terms and conditions of this Agreement, be made available to the Borrower on or before 11:00 a.m. on such date by depositing the same, in Same Day Funds, in the Borrower Account.

2.3 Use of Proceeds

The proceeds of the Loans shall be used by the Borrower only for working capital, capital expenditures and other lawful general corporate purposes of the Borrower and its Subsidiaries, including loans made by the Borrower to its Subsidiaries. No part of the proceeds of the Loans shall be used directly or indirectly for the purpose, whether immediate, incidental or ultimate, of purchasing or carrying any Margin Stock or maintaining or extending credit to others for such purpose or for any other purpose that otherwise violates the Margin Regulations. Notwithstanding the foregoing, the proceeds of the Loans shall not be used to finance any acquisition of all or substantially all of the Capital Stock of another Person unless the board of directors (or other comparable governing body) of such Person has duly approved such acquisition.

2.4 Interest; Interest Periods; Conversion/Continuation

(a) Interest Rate and Payment.

(i) Each Loan shall bear interest on the unpaid principal amount thereof, from and including the date of the making of such Loan to and excluding the due date or the date of any repayment thereof, at the following rates per annum: (A) for so long as and to the extent that such Loan is a Base Rate Loan, at the Base Rate plus the Applicable Margin; (B) for so long as and to the extent that such Loan is a Euro-Dollar Rate Loan, at the Euro-Dollar Rate for each Interest Period applicable thereto plus the Applicable Margin; (C) if such Loan is a Bid Loan, at the Absolute Rate quoted by the Tranche A Lender making such Bid Loan pursuant to Section 2.2(b)(ii); (D) if such Loan is a Swing Line Loan, at the Base Rate plus the Applicable Margin for Base Rate Loans and (E) if such Loan is a CDOR Rate Loan, at the CDOR Rate for each Interest Period applicable thereto plus the Applicable Margin. To the extent that any calculation of interest or any fee required to be paid under this Agreement shall be based on (or result in) a calculation that is less than zero, such calculation shall be deemed zero for purposes of this Agreement.

(ii) Notwithstanding the foregoing provisions of this Section 2.4(a), (A) during the existence of an Event of Default pursuant to Section 7.1(a)(i), such overdue principal shall bear interest at a rate per annum equal to the Post-Default Rate, without notice or demand of any kind and (B) during the existence of any Event of Default (other than pursuant to Section 7.1(a)(i)), any principal, overdue interest or other amount payable under this Agreement and the other Loan Documents shall, at the request of the Required Lenders, bear interest at a rate per annum equal to the Post-Default Rate.

(iii) Accrued interest shall be payable in arrears (A) in the case of a Base Rate Loan (including a Swing Line Loan), on the last Business Day of each month; (B) in the case of a Euro-Dollar Rate Loan or a CDOR Rate Loan, on the last day of each Interest Period applicable thereto; provided that if the Interest Period applicable to a Euro-Dollar Rate Loan or CDOR Rate Loan is longer than three months, interest also shall be payable on the last day of the third month of such Interest Period; (C) in the case of a Bid Loan, on the last day of the Interest Period applicable thereto; and (D) in the case of any Loan, when the Loan shall become due, whether by reason of maturity, mandatory prepayment, acceleration or otherwise. The Agent shall provide a billing to the Borrower setting forth the amount of interest payable in sufficient time for the Borrower to make timely payments of the correct amount without incurring any penalty or interest at the Post-Default Rate.

(b) Conversion or Continuation of Revolving Loans.

(i) Subject to this Section 2.4(b) and Sections 2.4(c) and 2.14, the Borrower shall have the option (A) at any time, to convert all or any part of its outstanding Base Rate Loans to Euro-Dollar Rate Loans, and (B) on the last day of the Interest Period applicable thereto, to (1) convert all or any part of its outstanding Euro-Dollar Rate Loans to Base Rate Loans, (2) to continue all or any part of its Euro-Dollar Rate Loans as Loans of the same Type or (3) to continue all or any part of its CDOR Rate Loans as Loans of the same Type; provided that, in the case of clause (A), (B) (2) or (B) (3), there does not exist a Default or an Event of Default at such time. If a Default or an Event of Default shall exist upon the expiration of the Interest Period applicable to any Euro-Dollar Rate Loan, such Euro-Dollar Rate Loan automatically shall be converted into a Base Rate Loan. If a Default or an Event of Default shall exist upon the expiration of an Interest Period applicable to any CDOR Rate Loan, such CDOR Rate Loan shall be continued as a CDOR Rate Loan with an Interest Period of one month. Notwithstanding anything to the contrary herein, a Swing Line Loan may not be converted from one Type of Loan to another. No Loan may be converted into or continued as a Loan denominated in a different currency, but instead must be prepaid in the original currency of such Loan and reborrowed in the other currency.

(ii) If the Borrower elects to convert or continue a Revolving Loan under this Section 2.4(b), it shall provide irrevocable notice to the Agent (which shall promptly notify the Tranche A Lenders or Tranche B Lenders, as applicable), which may be given by (x) telephone or (y) a Notice of Conversion/Continuation substantially in the form of Exhibit 2.4(b)(ii) or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent), duly completed and executed by a Responsible Officer (a "Notice of Continuation/Conversion"); provided that any telephonic notice to the Agent must be confirmed promptly by delivery to the Agent of a Notice of Conversion/Continuation. Each such Notice of Conversion/Continuation (or telephonic notice) must be received by (A) not later than 10:00 a.m. at least three Euro-Dollar Business Days before the proposed conversion or continuation date, if the Borrower proposes to convert into, or to continue, a Euro-Dollar Rate Loan, (B) not later than 10:00 a.m. at least three CDOR Business Days before the proposed conversion or continuation date, if the Borrower proposes to continue, a CDOR Rate Loan and (C) otherwise not later than 10:00 a.m. on the Business Day next preceding the proposed conversion or continuation date.

(iii) No Lender Party shall incur any liability to the Borrower or any other Lender Party in acting upon any telephonic notice that such Lender Party believes to have been given by a Responsible Officer or for otherwise acting in good faith under this Section 2.4(b) in converting or continuing any Loan (or a part thereof) pursuant to any telephonic notice.

(iv) Any Notice of Conversion/Continuation (or telephonic notice) shall be irrevocable and the Borrower shall be bound to convert or continue in accordance therewith. If any request for the conversion or continuation of a Loan is not made in accordance with this Section 2.4(b), or if no notice is so given with respect to a Euro-Dollar Rate Loan or a CDOR Rate Loan as to which the Interest Period expires, then (A) in the case of a Euro-Dollar Rate Loan, such Euro-Dollar Rate Loan automatically shall be converted into a Base Rate Loan and (B) in the case of a CDOR Rate Loan, such CDOR Rate Loan shall automatically be continued as a CDOR Rate Loan with an Interest Period of one month.

(v) Bid Loans may not be continued or converted but instead must be repaid in full at the end of the applicable Interest Period.

(c) Interest Periods and Minimum Amounts. Notwithstanding anything herein to the contrary, (i) all Interest Periods applicable to Euro-Dollar Rate Loans, CDOR Rate Loans and Bid Loans shall comply with the definition of “Interest Period,” and (ii) there may be no more than ten different Interest Periods for all Euro-Dollar Rate Loans, CDOR Rate Loans and Bid Loans outstanding at any one time. For purposes of the foregoing clause (ii), Interest Periods applicable to Loans of different Types shall constitute different Interest Periods even if they are coterminous.

(d) Computations. Interest on each Loan and all Fees and other amounts payable hereunder or under the other Loan Documents shall be computed on the basis of a 360-day year or, in the case of interest on Base Rate Loans (including Base Rate Loans determined by reference to the Euro-Dollar Rate) or Loans denominated in Canadian Dollars, a 365 or 366-day year, as the case may be, for the actual number of days elapsed including the first day but excluding the last day on which such Loan is outstanding (it being understood and agreed that if a Loan is borrowed and repaid on the same day, one day’s interest shall be payable with respect to such Loan). Any change in the interest rate on any Loan or other amount resulting from a change in the rate applicable thereto (or any component thereof, including the Applicable Margin) pursuant to the terms hereof shall become effective as of the opening of business on the day on which such change in the applicable rate (or component) shall become effective. Each determination of an interest rate by the Agent pursuant to any provision of this Agreement shall be conclusive and binding on all parties for all purposes, in the absence of manifest error.

(e) Maximum Lawful Rate of Interest. The rate of interest payable on any Loan or other amount shall in no event exceed the maximum rate of non-usurious interest permissible under Applicable Law (including, without limitation, the Criminal Code (Canada)). If the rate of interest payable on any Loan or other amount is ever reduced as a result of this Section 2.4(e) and at any time thereafter the maximum rate permitted by Applicable Law shall exceed the rate of interest provided for in this Agreement, then the rate provided for in this Agreement shall be increased to the maximum rate provided by Applicable Law for such period as is required so that the total amount of interest received by the Lenders is that which would have been received by the Lenders but for the operation of the first sentence of this Section 2.4(e).

(f) For the purposes of the Interest Act (Canada), (i) whenever a rate of interest or fee rate hereunder is calculated on the basis of a year (the “deemed year”) that contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest or fee rate shall be expressed as a yearly rate by multiplying such rate of interest or fee rate by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year, (ii) the principle of deemed reinvestment of interest shall not apply to any interest calculation hereunder and (iii) the rates of interest stipulated herein are intended to be nominal rates and not effective rates or yields. Each Loan Party hereby irrevocably agrees not to plead or assert, whether by way of defense or otherwise, in any proceeding relating to this Agreement and the other Loan Documents, that the interest payable under this Agreement and the calculation thereof has not been adequately disclosed to it, whether pursuant to section 4 of the Interest Act (Canada) or any other applicable law or legal principle.

2.5 Notes, Etc

(a) Loans Evidenced by Notes. The Loans made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Agent in the ordinary course of business. The accounts or records maintained by the Agent and each Lender shall be conclusive absent manifest error of the amount of the Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Agent in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Agent, the Borrower shall execute and deliver to such Lender (through the Agent) a promissory note, which shall evidence such Lender’s Loans in addition to such accounts or records. Each such promissory note shall (i) in the case of Tranche A Revolving Loans, be a Tranche A Revolving Loan Note, (ii) in the case of Tranche B Revolving Loans, be a Tranche B Revolving Loan Note, (iii) in the case of the Bid Loans, be a Bid Loan Note and (iv) in the case of Swing Line Loans, be a Swing Line Note. Each Note shall, by its terms, mature in accordance with the provisions of this Agreement applicable to the relevant Loans.

(b) Notation of Amounts and Maturities, Etc. Each Lender is hereby irrevocably authorized to record on the schedule attached to its Notes (or a continuation thereof) the information contemplated by such schedule. The failure to record, or any error in recording, any such information shall not, however, affect the obligations of the Borrower hereunder or under any Note to repay the principal amount of the Loans evidenced thereby, together with all interest accrued thereon. All such notations shall constitute conclusive evidence of the accuracy of the information so recorded, in the absence of manifest error.

(c) Participations in Letters of Credit and Swing Line Loans. In addition to the accounts and records referred to in subsection (b), each Tranche A Lender and the Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Tranche A Lender of participations in Letters of Credit and Swing Line Loans.

Notwithstanding any provision to the contrary contained herein, in the event of any conflict between the accounts and records maintained by the Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error.

2.6 Fees

In addition to certain fees described in subsections (h) and (i) of Section 2.19:

(a) Facility Fee. The Borrower shall pay to the Agent, for the pro rata benefit of the Lenders, a per annum facility fee (the “Facility Fee”) in Dollars equal to the Applicable Margin for the Facility Fee, in effect from time to time, based upon the then Revolving Committed Amount, whether or not used, for each day from and after the Closing Date until the Revolving Commitment Termination Date, subject to adjustment as provided in Section 2.22. The Facility Fee shall be payable quarterly in arrears on the last day of each calendar quarter and on the Revolving Commitment Termination Date. The Agent shall provide a billing to the Borrower setting forth the amount of the Facility Fee payable in sufficient time for the Borrower to make timely payments of the correct amount without incurring any penalty or interest at the Post-Default Rate.

(b) Other Fees. On the Closing Date and from time to time thereafter as specified in the Agent Fee Letter, the Borrower shall pay to the Agent the fees in Dollars specified in the Agent Fee Letter.

(c) Fees Non-Refundable. All Fees shall be fully earned when payable hereunder or under the Agent Fee Letter and shall be non-refundable.

2.7 Termination and Reduction of Revolving Commitments

(a) Automatic Termination. Each Lender’s Revolving Commitment shall terminate without further action on the part of such Lender on the earlier to occur of (i) the Maturity Date, and (ii) the date of complete (but not partial) termination of the Revolving Commitments pursuant to Section 2.7(b) or Section 7.2 (such earlier date being referred to herein as the “Revolving Commitment Termination Date”).

(b) Voluntary Reductions. Upon not less than five Business Days’ prior written notice to the Agent, the Borrower shall have the right, at any time or from time to time after the Closing Date, to terminate in whole or permanently reduce in part, without premium or penalty, the Tranche A Revolving Committed Amount or the Tranche B Revolving Committed Amount to an amount not less than the then aggregate principal amount of all outstanding Tranche A Revolving Loans or Tranche B Revolving Loans, as applicable; provided, that if, after giving effect to any reduction of the Tranche A Revolving Committed Amount, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Tranche A Revolving Committed Amount, such sublimit shall be automatically reduced by the amount of such excess. Any such termination or partial reduction shall be effective on the date specified in the Borrower’s notice, and any such partial reduction shall be in a minimum amount of \$10,000,000 and in integral multiples of \$1,000,000 in excess thereof.

(c) Change of Control. If a Change of Control shall occur (a) the Borrower will, within ten days after the occurrence thereof, give the Agent notice thereof and shall describe in reasonable detail the facts and circumstances giving rise thereto and (b) each Lender may, by three Business Days’ notice to the Borrower and the Agent given not later than 90 days after receipt of such notice of Change of Control, terminate its Revolving Commitment, which shall thereupon be terminated, and declare the Notes held by it (together with accrued interest thereon) and any other amounts payable hereunder for its account to be, and such Notes and such other amounts shall thereupon become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

2.8 Repayments and Prepayments

(a) Repayment.

(i) Revolving Loans. The unpaid principal amount of all Revolving Loans, together with accrued but unpaid interest and all other sums owing thereunder shall be due and payable in full on the Revolving Commitment Termination Date.

(ii) Swing Line Loans. The Borrower shall repay each Swing Line Loan on the earlier to occur of (i) the date ten Business Days after such Swing Line Loan is made and (ii) the Revolving Commitment Termination Date.

(b) Excess Revolving Loans.

(i) If at any time the aggregate principal amount of all outstanding Tranche A Revolving Loans plus all outstanding L/C Obligations plus all outstanding Swing Line Loans plus all outstanding Bid Loans exceeds the Tranche A Revolving Committed Amount, the Borrower shall, not later than the Business Day after the Borrower learns or is notified of the excess, make mandatory prepayments of the Tranche A Revolving Loans and/or Swing Line Loans and/or Cash Collateralize the L/C Obligations as may be necessary so that, after such prepayment, such excess is eliminated.

(ii) If at any time the aggregate principal amount of all outstanding Tranche B Revolving Loans exceeds the Tranche B Revolving Committed Amount (other than as a result of changes in one or more Spot Rates), the Borrower shall, not later than the Business Day after the Borrower learns or is notified of the excess, make mandatory prepayments of the Tranche B Revolving Loans as may be necessary so that, after such prepayment, such excess is eliminated.

(iii) If the Agent notifies the Borrower at any time that, as a result of a change in the Spot Rate, the principal amount of all Tranche B Revolving Loans at such time exceeds 105% of the Tranche B Revolving Committed Amount then in effect, the Borrower shall, not later than the Business Day after the Borrower learns or is notified of the excess, make mandatory prepayments of the Tranche B Revolving Loans as may be necessary, so that after such prepayment, such excess is eliminated.

(c) Optional Prepayments.

(i) Subject to this Section 2.8(c), the Borrower may, at its option, at any time or from time to time, prepay Revolving Loans in whole or in part, without premium or penalty, provided that (A) any prepayment shall be in an aggregate principal amount of at least \$5,000,000 and in integral multiples of \$1,000,000 in excess thereof (or, alternatively, the whole amount of Revolving Loans then outstanding) and (B) any prepayment of a Euro-Dollar Rate Loan or a CDOR Rate Loan on a day other than the last day of the Interest Period applicable thereto shall be made together with the amounts payable pursuant to Section 2.14. Bid Loans may not be voluntarily prepaid at any time.

(ii) If the Borrower elects to prepay a Revolving Loan under this Section 2.8(c), it shall deliver to the Agent a Notice of Loan Prepayment (A) with respect to a Base Rate Loan, not later than 10:00 a.m. on the proposed repayment date or (B) with respect to a Euro-Dollar Rate Loan or a CDOR Rate Loan, not later than 10:00 a.m. at least three Business Days before the proposed prepayment date. Any Notice of Loan Prepayment shall be irrevocable, and the payment amount specified in such notice shall be due and payable on the date specified in such notice, together with interest accrued thereon to such date.

(iii) The Borrower may, upon delivery to the Swing Line Lender (with a copy to the Agent) of a Notice of Loan Prepayment, at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Swing Line Lender and the Agent not later than 1:00 p.m. on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof (or, if less, the entire principal thereof then outstanding). Each such notice shall specify the date and amount of such prepayment. Any Notice of Loan Prepayment shall be irrevocable, and the payment amount specified in such notice shall be due and payable on the date specified in such notice, together with interest accrued thereon to such date.

(d) Payments Set Aside. To the extent the Agent or any Lender receives payment of any amount under the Loan Documents, whether by way of payment by a Loan Party, set-off or otherwise, which payment is subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver, receiver-manager, or any other party under any Debtor Relief Law, other law or equitable cause, in whole or in part, then, to the extent of such payment received, the Obligations or part thereof intended to be satisfied thereby shall be revived and continue in full force and effect.

2.9 Manner of Payment

(a) All payments to be made by the Borrower shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided, the Borrower shall make each payment under the Loan Documents to the Agent, in Dollars or Canadian Dollars, as applicable, and in Same Day Funds at the Agent's Office for the applicable currency, for the account of the Applicable Lending Offices of the Lenders entitled to such payment, by depositing such payment in the Agent's Account not later than 11:00 a.m., in the case of Loans denominated in Dollars, and not later than the Applicable Time specified by the Agent in the case of Loans denominated in Canadian dollars, in each case, on the due date thereof. Without limiting the generality of the foregoing, the Agent may require that any payments due under this Agreement be made in the United States. If, for any reason, the Borrower is prohibited by any Applicable Law from making any required payment hereunder in Canadian Dollars, the Borrower shall make such payment in Dollars in the Dollar Equivalent of Canadian Dollars payment amount. Any payments received (i) after 11:00 a.m., in the case of payments in Dollars, or (ii) after the Applicable Time specified by the Agent in the case of payments in Canadian Dollars, in each case, on any Business Day shall be deemed received on the next succeeding Business Day. Not later than 12:00 Noon on the day such payment is made, the Agent shall deliver to each Lender entitled to such payment, for the account of the Lender's Applicable Lending Office, in Dollars or Canadian Dollars, as applicable, and in Same Day Funds, such Lender's share of the payment so made. Delivery shall be made in accordance with the written instructions satisfactory to the Agent from time to time given to the Agent by each Lender.

(b) Unless the Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders entitled to such payment, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Agent forthwith on demand the amount so distributed to such Lender, in Same Day Funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Agent, at the Overnight Rate.

(c) If the Agent shall fail to deliver to any other Lender Party its share of any payment received from the Borrower as and when required by Section 2.9(a), the Agent shall pay to such Lender its share of such payment together with interest on such amount at the Overnight Rate, for each day from the date such amount was required to be paid to such Lender until the date the Agent pays such amount to such Lender.

(d) Subject to Sections 2.10 and 7.3, all payments made by the Borrower under the Loan Documents shall be applied to the Obligations as the Borrower may direct; provided that if the Borrower does not provide any such direction to the Agent, all amounts paid or received shall be applied, subject to Section 2.10, as the Agent may reasonably deem appropriate.

(e) Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, such payment shall instead be made on the next succeeding Business Day (subject to accrual of interest and fees for the period of extension), except that, in the

case of Euro-Dollar Rate Loans or CDOR Rate Loans, if the extension would cause the payment to be made in the next following calendar month, then such payment shall instead be made on the preceding Business Day.

2.10 Pro Rata Treatment

Except to the extent otherwise expressly provided herein,

(a) Tranche A Revolving Loans, Tranche B Revolving Loans and participations in Swing Line Loans and L/C Obligations shall be made by the Tranche A Lenders or the Tranche B Lenders, as applicable, pro rata according to their respective Revolving Commitment Percentages.

(b) Each reduction of the Tranche A Revolving Committed Amount or the Tranche B Revolving Committed Amount and each payment of Tranche A Revolving Loans, Tranche B Revolving Loans, participations in Swing Line Loans and L/C Obligations, interest on Tranche A Revolving Loans, interest on Tranche B Revolving Loans and Facility Fees shall be applied pro rata among the Tranche A Lenders and/or the Tranche B Lenders, as applicable, according to their respective Revolving Commitment Percentages.

(c) Each payment by the Borrower of principal of Bid Loans made as part of the same Borrowing shall be made and applied for the account of the Tranche A Lenders holding such Bid Loans pro rata according to the respective unpaid principal amount of such Bid Loans owed to such Tranche A Lenders and each payment by the Borrower of interest on Bid Loans shall be made and applied for the account of the Tranche A Lenders holding such Bid Loans pro rata according to the respective accrued but unpaid interest on the Bid Loans owed to such Tranche A Lenders.

2.11 Sharing of Payments

The Lenders agree among themselves that, except to the extent otherwise provided herein, in the event that any Lender shall obtain payment in respect of any Loan, participations in L/C Obligations or in Swing Line Loans or any other obligation owing to such Lender under this Agreement through the exercise of a right of setoff, banker's lien or counterclaim, or pursuant to a secured claim under Section 506 of the Bankruptcy Code or other security or interest arising from, or in lieu of, such secured claim, received by such Lender under any applicable bankruptcy, insolvency or other similar law or otherwise, or by any other means, in excess of its pro rata share of such payment as provided for in this Agreement, such Lender shall promptly pay in cash or purchase from the other Lenders a participation in such Loans, and if such Lender is a Tranche A Lender, subparticipations in such L/C Obligations and Swing Line Loans and other obligations in such amounts, and make such other adjustments from time to time, as shall be equitable to the end that all Lenders share such payment in accordance with their respective ratable shares as provided for in this Agreement. The Lenders further agree among themselves that if payment to a Lender obtained by such Lender through the exercise of a right of setoff, banker's lien, counterclaim or other event as aforesaid shall be rescinded or must otherwise be restored, each Lender which shall have shared the benefit of such payment shall, by payment in cash or a repurchase of a participation theretofore sold, return its share of that benefit (together with its share of any accrued interest payable with respect thereto) to each Lender whose payment shall have been rescinded or otherwise restored. Except as otherwise expressly provided in this Agreement, if any Lender or the Agent shall fail to remit to any other Lender an amount payable by such Lender or the Agent to such other Lender pursuant to this Agreement on the date when such amount is due, such payments shall be made together with interest thereon for each date from the date such amount is due until the date such amount is paid to the Agent or such other Lender at a rate per annum equal to the Overnight Rate. If under any applicable bankruptcy, insolvency or other similar law, any Lender receives a secured claim in lieu of a setoff to which this Section 2.11 applies, such Lender shall, to the extent practicable, exercise its rights in respect of such secured claim in a manner consistent with the rights of the Lenders under this Section 2.11 to share in the benefits of any recovery on such secured claim.

2.12 Mandatory Suspension and Conversion of Euro-Dollar Rate Loans or CDOR Rate Loans

(a) Euro-Dollar Rate Loans. Each Lender's obligation to make, continue or convert Loans into Euro-Dollar Rate Loans shall be suspended, all outstanding Euro-Dollar Rate Loans shall be converted into Base Rate Loans (other than Base Rate Loans as to which the interest rate is based on the Euro-Dollar Rate) on the last day of the respective Interest Periods applicable thereto (or, if earlier, in the case of Section 2.12(a)(ii), on the last day that such Lender can lawfully continue to maintain Euro-Dollar Rate Loans) and all pending requests for the making or continuation of, or conversion into, Euro-Dollar Rate Loans shall be considered requests for the making or conversion into Base Rate Loans (other than Base Rate Loans as to which the interest rate is based on the Euro-Dollar Rate) (or, in the case of requests for conversion, disregarded) on the same Funding Date or the end of the currently applicable Interest Period, as applicable, if:

(i) on or prior to the determination of the interest rate for a Euro-Dollar Rate Loan for any Interest Period, the Agent determines that for any reason appropriate quotations (as referenced in the definition of "Interbank Offered Rate" appearing in Section 1.1) are not available to the Agent in the relevant interbank market for purposes of determining the Euro-Dollar Rate, or a Lender advises the Agent (which shall thereupon notify the Borrower and the other Lenders) that such rate would not accurately reflect the cost to such Lender of making, continuing, or converting a Loan into, a Euro-Dollar Rate Loan for such Interest Period; or

(ii) after the date hereof, a Lender notifies the Agent (which shall thereupon notify the Borrower and the other Lenders) of its determination that any Regulatory Change makes it unlawful or impossible for such Lender or its Euro-Dollar Lending Office to make or maintain any Euro-Dollar Rate Loan or any Base Rate Loan as to which the interest rate is based on the Euro-Dollar Rate, or to comply with its obligations hereunder in respect thereof; provided, however, that if the Euro-Dollar Lending Office of any affected

Lender is other than the affected Lender's main office, before giving such notice, such affected Lender agrees to use reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to designate a different Euro-Dollar Lending Office if such designation will avoid the need for giving such notice and will not be otherwise materially disadvantageous to such Lender.

(b) CDOR Rate Loans. Each Tranche B Lender's obligation to make or continue CDOR Rate Loans shall be suspended, all outstanding CDOR Rate Loans shall be repaid by the Borrower on the last day of the respective Interest Periods applicable thereto (or, if earlier, in the case of Section 2.12(b)(ii), on the last day that such Lender can lawfully continue to maintain CDOR Rate Loans) and all pending requests for the making or continuation of CDOR Rate Loans shall be considered disregarded on the same Funding Date or the end of the currently applicable Interest Period, as applicable, if:

(i) on or prior to the determination of the interest rate for a CDOR Rate Loan for any Interest Period, the Agent determines that for any reason appropriate quotations (as referenced in the definition of "CDOR Rate" appearing in Section 1.1) are not available to the Agent in the Canadian interbank market for purposes of determining the CDOR Rate, or a Tranche B Lender advises the Agent (which shall thereupon notify the Borrower and the other Lenders) that such rate would not accurately reflect the cost to such Lender of making or continuing a CDOR Rate Loan for such Interest Period; or

(ii) after the date hereof, a Tranche B Lender notifies the Agent (which shall thereupon notify the Borrower and the other Lenders) of its determination that any Regulatory Change makes it unlawful or impossible for such Lender or its CDOR Lending Office to make or maintain any CDOR Rate Loan, or to comply with its obligations hereunder in respect thereof; provided, however, that if the CDOR Lending Office of any affected Lender is other than the affected Lender's main office, before giving such notice, such affected Lender agrees to use reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to designate a different CDOR Lending Office if such designation will avoid the need for giving such notice and will not be otherwise materially disadvantageous to such Lender.

(c) Successor Rates. Notwithstanding anything to the contrary in this Agreement or any other Loan Documents (including Section 9.3 hereof), if the Agent determines (which determination shall be conclusive absent manifest error), or the Borrower or Required Lenders notify the Agent (with, in the case of the Required Lenders, a copy to Borrower) that the Borrower or Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining the Applicable Reference Rate for an applicable currency for any requested Interest Period, including, without limitation, because the Screen Rate for such applicable currency is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) the administrator of the Screen Rate for an applicable currency or a Governmental Authority having or purporting to have jurisdiction over the Agent has made a public statement identifying a specific date after which (x) the Applicable Reference Rate for an applicable currency or the Screen Rate for an applicable currency shall no longer be made available, or used for determining the interest rate of loans denominated in such applicable currency or (y) the administrator of the Screen Rate for an applicable currency will be insolvent; provided that, in each case, at the time of such statement, there is no successor administrator that is satisfactory to the Agent, that will continue to provide the Applicable Reference Rate for such applicable currency after such specific date (such specific date, the "Scheduled Unavailability Date"), or

(iii) syndicated loans currently being executed, or that include language similar to that contained in this Section, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace the Applicable Reference Rate for an applicable currency,

(d) then, reasonably promptly after such determination by the Agent or receipt by the Agent of such notice, as applicable, the Agent and the Borrower may amend this Agreement solely for the purpose of replacing the Applicable Reference Rate for the applicable currency in accordance with this Section with (x) in the case of Dollars, one or more SOFR-Based Rates or (y) another alternate benchmark rate giving due consideration to any evolving or then existing convention for similar syndicated credit facilities syndicated in the U.S. and denominated in the applicable currency for such alternative benchmarks and, in each case, including any mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar syndicated credit facilities syndicated in the U.S. and denominated in the applicable currency for such benchmarks, each of which adjustments or methods for calculating such adjustments shall be published on one or more information services as selected by the Agent from time to time in its reasonable discretion and may be periodically updated (each, an "Adjustment;" and any such proposed rate, a "Successor Rate"), and any such amendment shall become effective at 5:00 p.m. on the fifth (5th) Business Day after the Agent shall have posted such proposed amendment to all Lenders and the Borrower unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Agent written notice that such Required Lenders (A) in the case of an amendment to replace the Applicable Reference Rate with respect to Euro-Dollar Rate Loans denominated in Dollars with a rate described in clause (x), object to any Adjustment; or (B) in the case of an amendment to replace the Applicable Reference Rate with respect to CDOR Rate Loans with a rate described in clause (y), object to such amendment; provided that for the avoidance of doubt, in the case of clause (A), the Required Lenders shall not be entitled to object to any SOFR-Based Rate contained in any such amendment. Such Successor Rate for the applicable currency shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Agent, such Successor Rate for such applicable currency shall be applied in a manner as otherwise reasonably determined by the Agent.

(e) If no Successor Rate has been determined for the applicable currency and the circumstances under clause (c)(i) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Agent will promptly so notify the Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Euro-Dollar Rate Loans or CDOR Rate Loans, as applicable, shall be suspended, (to the extent of the affected Euro-Dollar Rate Loans or CDOR Rate Loans, as applicable, or Interest Periods), and (y) the Euro-Dollar Rate component shall no longer be utilized in determining the Base Rate. Upon receipt of such notice, (i) the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Euro-Dollar Rate Loans (to the extent of the affected Euro-Dollar Rate Loans or Interest Periods), CDOR Rate Loans (to the extent of the affected CDOR Rate Loans or Interest Periods) or, failing that, will be deemed to have converted each such request into a request for a Borrowing of Base Rate Loans denominated in Dollars in the Dollar Equivalent of the amount specified therein and (ii) (A) any outstanding affected Euro-Dollar Rate Loans denominated in Dollars will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period and (B) any outstanding CDOR Rate Loans shall be prepaid at the end of the applicable Interest Period in full.

(f) Notwithstanding anything else herein, any definition of a Successor Rate for any currency shall provide that in no event shall such Successor Rate be less than 0.75% per annum for purposes of this Agreement.

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

2.13 Regulatory Changes

(a) Increased Costs.

(i) Euro-Dollar Rate Loans. If, on or after the date hereof, any Regulatory Change shall impose, modify, or deem applicable any reserve, special deposit, compulsory loan, insurance or similar requirement (other than any such requirement with respect to any Euro-Dollar Rate Loan to the extent included in the Euro-Dollar Reserve Requirement), against, or any fees or charges in respect of, assets held by, deposits with or other liabilities for the account of, commitments of, advances or Loans or Letters of Credit by, any Lender Party (or its Applicable Lending Office) or shall impose on any Lender Party (or its Applicable Lending Office) or on the relevant interbank market any other condition, cost or expense affecting any Euro-Dollar Rate Loan, or any obligation to make Euro-Dollar Rate Loans, and the effect of the foregoing is (x) to increase the cost to such Lender Party (or its Applicable Lending Office) of making, issuing, renewing, continuing, converting or maintaining any Euro-Dollar Rate Loan or its Revolving Commitment in respect thereof or any Letter of Credit or participation therein or (y) to reduce the amount of any sum received or receivable by such Lender Party (or its Applicable Lending Office) hereunder or under any other Loan Document with respect thereto, then, the Borrower shall from time to time pay to such Lender Party, within 15 days after request by such Lender Party, such additional amounts as are necessary, in such Lender Party's reasonable determination, to compensate such Lender Party for such increased cost or reduction; provided, however, that if the Euro-Dollar Lending Office of any affected Lender is other than the affected Lender's main office, before giving such notice, such affected Lender agrees to use reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to designate a different Euro-Dollar Lending Office if such designation will avoid the need for giving such notice and will not be otherwise materially disadvantageous to such Lender.

(ii) CDOR Rate Loans. If, on or after the date hereof, any Regulatory Change shall impose, modify, or deem applicable any reserve, special deposit, compulsory loan, insurance or similar requirement, against, or any fees or charges in respect of, assets held by, deposits with or other liabilities for the account of, commitments of, advances or Loans by, any Lender Party (or its Applicable Lending Office) involved in Tranche B Revolving Loans or shall impose on any such Lender Party (or its Applicable Lending Office) or on the relevant interbank market any other condition, cost or expense affecting any CDOR Rate Loan, or any obligation to make CDOR Rate Loans, and the effect of the foregoing is (x) to increase the cost to such Lender Party (or its Applicable Lending Office) of making, issuing, renewing, continuing or maintaining any CDOR Rate Loan or (y) to reduce the amount of any sum received or receivable by such Lender Party (or its Applicable Lending Office) hereunder or under any other Loan Document with respect thereto, then, the Borrower shall from time to time pay to such Lender Party, within 15 days after request by such Lender Party, such additional amounts as are necessary, in such Lender Party's reasonable determination, to compensate such Lender Party for such increased cost or reduction; provided, however, that if the CDOR Lending Office of any affected Lender is other than the affected Lender's main office, before giving such notice, such affected Lender agrees to use reasonable efforts (consistent with its internal policy and legal and regulatory restrictions) to designate a different CDOR Lending Office if such designation will avoid the need for giving such notice and will not be otherwise materially disadvantageous to such Lender.

(b) Capital Costs. If a Regulatory Change after the date hereof regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on the capital of or maintained by any Lender or any company controlling such Lender as a consequence of such Lender's Loans, participations in Letters of Credit or obligations hereunder and other commitments of this type to a level below that which such Lender or company could have achieved but for such Regulatory Change (taking into account such Lender's or company's policies with respect to capital adequacy), then the Borrower shall from time to time pay to such Lender, within 15 days after request by such Lender, such additional amounts as are necessary in such Lender's reasonable determination to compensate such Lender or company for such

reduction in return, to the extent such Lender or company determines such reduction to be attributable to the existence of obligations for the account of the Borrower.

(c) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section will not constitute a waiver of such Lender's right to demand such compensation, provided that the Borrower will not be required to compensate a Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than six months prior to the date that such Lender notifies the Borrower of the Regulatory Change giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Regulatory Change giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above will be extended to include the period of retroactive effect thereof).

2.14 Compensation for Funding Losses

The Borrower shall pay to any Lender, upon demand by such Lender, such amount or amounts as such Lender reasonably determines is or are necessary to compensate it for any loss, cost, expense or liabilities incurred (including any loss, cost, expense or liability incurred by reason of the liquidation or redeployment of deposits and any foreign exchange losses) by it as a result of (a) any payment, prepayment or conversion of any Euro-Dollar Rate Loan or CDOR Rate Loan for any reason (including by reason of a prepayment pursuant to Section 2.8(b) or an acceleration pursuant to Section 7.2, but excluding any prepayment pursuant to Section 2.1(e)) on a date other than the last day of an Interest Period applicable to such Euro-Dollar Rate Loan or such CDOR Rate Loan, or (b) any Euro-Dollar Rate Loan or CDOR Rate Loan for any reason not being made (other than a wrongful failure to fund by such Lender or failure to make such a Loan due to circumstances described in Section 2.12), converted or continued, or any payment of principal of or interest thereon not being made, on the date therefor determined in accordance with the applicable provisions of this Agreement or (c) for any prepayment of a Bid Loan due to acceleration pursuant to Section 7.2 or otherwise. Notwithstanding the foregoing, the Borrower shall not be responsible to any Lender for any costs hereunder that result from the application of Section 2.12 or from any wrongful actions or omissions or default (including under Section 2.1(e)) of such Lender.

2.15 Certificates Regarding Yield Protection, Etc

Any request by any Lender Party for payment of additional amounts pursuant to Sections 2.13, 2.14 and 2.16 shall be accompanied by a certificate of such Lender Party setting forth the basis and amount of such request. In determining the amount of such payment, such Lender Party may use such reasonable attribution or averaging methods as it deems appropriate and practical.

2.16 Taxes

(a) Tax Liabilities Imposed on a Lender.

(i) Any and all payments by any Loan Party under any of the Loan Documents shall be made free and clear of and without deduction for any and all Taxes, except as required by Applicable Law. If any Applicable Law (as determined in the good faith discretion of the Agent or Borrower, as applicable) requires the deduction or withholding of any Tax from any such payment by the Agent or a Loan Party, then the Agent or such Loan Party shall be entitled to make such deduction or withholding upon the basis of the information and documentation to be delivered pursuant to subsections (d) and (e) below.

(ii) If any Loan Party or the Agent shall be required by the Code to withhold or deduct any Taxes, including United States Federal backup withholding and withholding taxes, from any payment then (A) the Agent shall withhold or make such deductions as are determined by the Agent to be required based upon the information and documentation it has received pursuant to subsections (d) and (e) below, (B) the Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Code, and (C) to the extent the withholding or deduction is made on account of Taxes other than Excluded Taxes, the sum payable by such Loan Party shall be increased as may be necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 2.16) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deductions been made.

(iii) Notwithstanding any other provision of this Section 2.16, no Loan Party shall be required to pay any additional amounts pursuant to this Section 2.16(a) with respect to Taxes that are attributable to such Lender's failure to fully comply with Section 2.16(d) and (e) and/or the certifications provided by such Lender being inaccurate.

(b) Other Taxes.

(i) In addition, the Borrower agrees to pay, upon written notice from a Lender or Agent and prior to the date when penalties attach thereto, all other Taxes (other than Excluded Taxes) that arise from any payment made hereunder or from the execution, delivery or registration of, or otherwise with respect to, this Agreement. Each of the Loan Parties shall, and does hereby, indemnify the Agent, and shall make payment in respect thereof within 10 days after demand therefor, for any amount which a Lender or L/C Issuer for any reason fails to pay indefeasibly to the Agent as required pursuant to Section 2.16(b)(ii) below.

(ii) Each Lender and L/C Issuer shall, and does hereby, severally indemnify, and shall make payment in respect thereof within 10 days after demand therefor, (x) the Agent against any Taxes other than Excluded Taxes attributable to such Lender or L/C

Issuer (but only to the extent that the Loan Parties have not already indemnified the Agent for such Taxes and without limiting the obligation of the Loan Parties to do so), (y) the Agent and the Loan Parties, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.6(d) relating to the maintenance of a Participant Register or as a result of the failure by such Lender or the L/C Issuer, as the case may be, to deliver, or as a result of the inaccuracy, inadequacy or deficiency of, any documentation required to be delivered by such Lender or the L/C Issuer, as the case may be, to the Borrower or the Agent pursuant to Section 2.16(d) or (e) and (z) the Agent and the Loan Parties, as applicable, against any Excluded Taxes attributable to such Lender or L/C Issuer, in each case, that are payable or paid by the Agent or the Loan Parties 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 Agent shall be conclusive absent manifest error. Each Lender and L/C Issuer hereby authorizes the Agent to set off and apply any and all amounts at any time owing to such Lender or L/C Issuer, as the case may be, under this Agreement or any other Loan Document against any amount due to the Agent under this clause (ii).

(c) Evidence of Payments. Upon request by the Borrower or the Agent, as the case may be, after any payment of Taxes by any Loan Party or by the Agent to a Governmental Authority as provided in this Section 2.16, the Borrower shall deliver to the Agent or the Agent shall deliver to the Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Applicable Laws to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Agent, as the case may be.

(d) Evidence of Exemption.

(i) Any Lender or L/C Issuer 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 Borrower and to the Agent, at the time or times reasonably requested by the Borrower or the Agent, such properly completed and executed documentation prescribed by Applicable Law or the taxing authorities of a jurisdiction pursuant to such Applicable Law reasonably requested by the Borrower or the Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender or L/C Issuer, as applicable, if reasonably requested by the Borrower or the Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Lender or L/C Issuer 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 Sections 2.16(d)(ii) and (e) below) shall not be required if in the Lender's or L/C Issuer's reasonable judgment such completion, execution or submission would subject such Lender or L/C Issuer to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender or L/C Issuer.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Agent on or before the Closing Date (and from time to time thereafter upon the reasonable request of the Borrower or the Agent), copies of executed IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) each Foreign Lender (which, for purposes of this Section 2.16, shall include any Affiliate of a Lender that makes any Euro-Dollar Rate Loan or a CDOR Rate Loan pursuant to the terms of this Agreement) shall submit to the Borrower and the Agent on or before the Closing Date (or, in the case of a Person that becomes a Lender after the Closing Date by assignment, promptly upon such assignment), either:

(I) copies of the following executed forms (x) with respect to payments of interest under any Loan Document IRS Form W-8BEN or W-8BEN-E, as applicable, certifying and establishing that such Foreign Lender is entitled to benefits under an income tax treaty to which the United States is a party which reduces to zero the rate of withholding tax on payments of interest, and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E, as applicable, certifying and establishing that such Foreign Lender is entitled to an exemption from U.S. tax pursuant to the "business profits" or "other income" article of such tax treaty;

(II) copies of executed IRS Form W-8ECI, certifying that the income receivable pursuant to this Agreement is effectively connected with the conduct of a trade or business in the United States;

(III) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, copies of the following executed documents (x) a certificate substantially in the form of Exhibit 2.16(d)(ii)-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) IRS Form W-8BEN or W-8BEN-E, as applicable; or

(IV) to the extent a Foreign Lender is not the beneficial owner, copies of executed IRS Form W-8IMY, accompanied by IRS Form W-8ECI, W-8BEN, W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit 2.16(d)(ii)-2 or Exhibit 2.16(d)(ii)-3, W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest

exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit 2.16(d)(ii)-4 on behalf of each such direct and indirect partner;

(iii) Each such Lender shall, to the extent it is legally entitled to do so, from time to time after submitting any such form, submit to the Borrower and the Agent such additional duly completed and signed copies of such forms (or such substantively comparable successor forms or other documents as shall be adopted from time to time by the relevant United States taxing authorities as a basis for claiming an exemption from or reduction in United States federal withholding Tax) as may be (1) reasonably requested in writing by the Borrower or the Agent and (2) appropriate under then current United States laws or regulations.

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

(f) Additional Forms. Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 2.16 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Agent in writing of its legal inability to do so.

(g) Treatment of Certain Refunds. Unless required by Applicable Laws, at no time shall the Agent have any obligation to file for or otherwise pursue on behalf of a Lender or L/C Issuer, or have any obligation to pay to any Lender or L/C Issuer, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or L/C Issuer, as the case may be. If any Recipient determines, in its sole discretion, that it has received a refund of any Taxes as to which it has been indemnified by the Loan Parties or with respect to which any Loan Party has paid additional amounts pursuant to this Section 2.16, it shall pay to such Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 2.16 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the Loan Party, upon the request of the Recipient, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to the Loan Party pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to any Loan Party or any other Person.

2.17 Applicable Lending Office; Discretion of Lenders as to Manner of Funding

Each Lender may make, carry or transfer Euro-Dollar Rate Loans or CDOR Rate Loans at, to, or for the account of an Affiliate of the Lender, provided that such Lender shall not be entitled to receive, nor shall the Borrower be required to pay, any greater amount under Sections 2.13 or 2.16 as a result of the transfer of any such Loan than such Lender would be entitled to receive, or the Borrower obligated to pay, immediately prior thereto unless (a) such transfer occurred at a time when circumstances giving rise to the claim for such greater amount did not exist or (b) such claim would have arisen even if such transfer had not occurred. Notwithstanding any other provision of this Agreement, each Lender shall be entitled to fund and maintain its funding of all or any part of its Euro-Dollar Rate Loans or CDOR Rate Loans in any manner it sees fit, it being understood, however, that for purposes of this Agreement, all determinations hereunder shall be made as if each Lender had actually funded and maintained each Euro-Dollar Rate Loan or each CDOR Rate Loan, as applicable, through the purchase of deposits in the relevant interbank market having a maturity corresponding to such Loan's Interest Period and bearing interest at the applicable rate.

2.18 Increases in Revolving Commitment

Prior to the Maturity Date and upon at least 15 days' prior written notice to the Agent (which notice shall be promptly transmitted by the Agent to each Lender), the Borrower shall have the right, subject to the terms and conditions set forth below, to increase the aggregate amount of the Tranche A Revolving Committed Amount (but not the Letter of Credit Sublimit or the Swing Line Sublimit); provided that (a) no Default or Event of Default shall exist at the time of the request or the proposed increase in the Tranche A Revolving Committed Amount, (b) such increase must be in a minimum amount of \$10,000,000 and in integral multiples of \$1,000,000 above such amount, (c) the Tranche A Revolving Committed Amount shall not be increased to an amount greater than SEVEN HUNDRED FIFTY MILLION DOLLARS (\$750,000,000) without the prior written consent of the Tranche A Required Lenders, (d) the aggregate amount of all increases to the Tranche A Revolving Committed Amount pursuant to this Section 2.18 shall not exceed \$200,000,000, (e) no individual Tranche A Lender's Tranche A Revolving Commitment may be increased without such Tranche A Lender's written consent, (f) if requested pursuant to Section 2.5, the Borrower shall execute and deliver such Tranche A Revolving Loan Note(s) as are necessary to reflect the increase in the Tranche A Revolving Committed Amount, (g) Schedule 1.1(c) shall be amended to reflect the revised Tranche A Revolving

Committed Amount and revised Revolving Commitment Percentages of the Tranche A Lenders and (h) if any Tranche A Revolving Loans are outstanding at the time of an increase in the Tranche A Revolving Committed Amount, the Borrower will prepay (provided that any such prepayment shall be subject to Section 2.14) one or more existing Tranche A Revolving Loans in an amount necessary such that after giving effect to the increase in the Tranche A Revolving Committed Amount each Tranche A Lender will hold its pro rata share (based on its share of the revised Tranche A Revolving Committed Amount) of outstanding Tranche A Revolving Loans.

Any such increase in the Tranche A Revolving Committed Amount shall apply, at the option of the Borrower, to (x) the Tranche A Revolving Commitment of one or more existing Tranche A Lenders; provided that any Tranche A Lender whose Tranche A Revolving Commitment is being increased must consent in writing thereto and/or (y) the creation of a new Tranche A Revolving Commitment to one or more institutions that is not an existing Tranche A Lender; provided that any such institution (A) must conform to the definition of Eligible Assignee, (B) must have a Tranche A Revolving Commitment of at least \$10,000,000 and (C) must become a Tranche A Lender under this Agreement by execution and delivery of an appropriate joinder agreement or of counterparts to this Agreement in a manner acceptable to the Borrower and the Agent.

2.19 Letters of Credit .

(a) The Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each L/C Issuer agrees, in reliance upon the agreements of the Tranche A Lenders set forth in this Section 2.19, (1) 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 in Dollars for the account of the Borrower or any of its Subsidiaries, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; and (B) the Tranche A Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower or its Subsidiaries and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the sum of all Tranche A Revolving Loans outstanding plus all Bid Loans outstanding plus all L/C Obligations outstanding plus all Swing Line Loans outstanding shall not exceed the Tranche A Revolving Committed Amount, (y) with respect to each individual Tranche A Lender, such Tranche A Lender's pro rata share of outstanding Tranche A Revolving Loans plus such Tranche A Lender's pro rata share of outstanding L/C Obligations plus such Tranche A Lender's pro rata share of outstanding Swing Line Loans shall not exceed such Tranche A Lender's Revolving Commitment Percentage of the Tranche A Revolving Committed Amount and (z) the L/C Obligations outstanding shall not exceed the Letter of Credit Sublimit; provided, further, that after giving effect to all L/C Credit Extensions, the aggregate outstanding amount of all L/C Obligations of any Initial L/C Issuer shall not exceed such Initial L/C Issuer's L/C Commitment. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the provisos to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the 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.

(ii) An L/C Issuer shall not issue any Letter of Credit if:

(A) subject to Section 2.19(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Tranche A Required Lenders (other than Defaulting Lenders) have approved such expiry date; or

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless all the Tranche A Lenders that have Tranche A Revolving Commitments have approved such expiry date.

(iii) An L/C Issuer shall not be under any 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 the L/C Issuer from issuing such Letter of Credit, or any Applicable Law applicable to such L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or request 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 and which such L/C Issuer in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of such L/C Issuer applicable to letters of credit generally;

(C) except as otherwise agreed by the Agent and such L/C Issuer, such Letter of Credit is in an initial stated amount less than \$50,000;

(D) such Letter of Credit is to be denominated in a currency other than Dollars;

(E) such Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder; or

(F) any Tranche A Lender is at that time a Defaulting Lender, unless such L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to such L/C Issuer (in its sole discretion) with the Borrower or such Tranche A Lender to eliminate such L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.22(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iv) An L/C Issuer shall not amend any Letter of Credit if such L/C Issuer would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

(v) An L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(vi) Each L/C Issuer shall act on behalf of the Tranche A Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and such L/C Issuer shall have all of the benefits and immunities (A) provided to the Agent in Article 8 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 Issuer Documents pertaining to such Letters of Credit as fully as if the term "Agent" as used in Article 8 included such L/C Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to such L/C Issuer.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the applicable L/C Issuer (with a copy to the Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by the applicable L/C Issuer, by personal delivery or by any other means acceptable to such L/C Issuer. Such Letter of Credit Application must be received by the applicable L/C Issuer and the Agent not later than 11:00 a.m. at least five Business Days (or such later date and time as the Agent and such L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. 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 satisfactory to the applicable 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; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as such L/C Issuer may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the applicable L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as such L/C Issuer may reasonably require. Additionally, the Borrower shall furnish to applicable L/C Issuer and the Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such L/C Issuer or the Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable L/C Issuer will confirm with the Agent (by telephone or in writing) that the Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, such L/C Issuer will provide the Agent with a copy thereof. Unless the applicable L/C Issuer has received written notice from any Lender, the Agent or the Borrower, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article 3 shall not be satisfied, 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 the Borrower or the applicable Subsidiary or enter into the applicable amendment, as the case may be, in each case in accordance with such L/C Issuer's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Tranche A Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from such L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Tranche A Lender's Revolving Commitment Percentage times the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application, the applicable L/C Issuer may, in its sole discretion, agree to issue a Letter of Credit other than a commercial Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit such L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable L/C Issuer, the

Borrower shall not be required to make a specific request to such L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Tranche A Lenders shall be deemed to have authorized (but may not require) the applicable L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that such L/C Issuer shall not permit any such extension if (A) such L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.19(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Agent that the Tranche A Required Lenders have elected not to permit such extension, (2) from the Agent, any Lender or the Borrower that one or more of the applicable conditions specified in Section 3.2 is not then satisfied, and in each case directing such L/C Issuer not to permit such extension or (3) from the Borrower that the Borrower has elected not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, applicable L/C Issuer will also deliver to the Borrower and the Agent a true and complete copy of such Letter of Credit or amendment. On a monthly basis, each L/C Issuer shall deliver to the Agent a complete list of all outstanding Letters of Credit issued by such L/C Issuer as provided in Section 2.19(l).

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of drawing under such Letter of Credit, the applicable L/C Issuer shall notify the Borrower and the Agent thereof. Not later than 11:00 a.m. on the date of any payment by the applicable L/C Issuer under a Letter of Credit (each such date, an “Honor Date”), the Borrower shall reimburse such L/C Issuer through the Agent in an amount equal to the amount of such drawing. If the Borrower fails to so reimburse the applicable L/C Issuer by such time, the Agent shall promptly notify each Tranche A Lender of the Honor Date, the amount of the unreimbursed drawing (the “Unreimbursed Amount”), and the amount of such Tranche A Lender’s Revolving Commitment Percentage thereof. In such event, the Borrower shall be deemed to have requested a Borrowing of Tranche A Revolving Loans that are Base Rate Loans 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 2.1(b) for the principal amount of Base Rate Loans, but subject to the conditions set forth in Section 3.2 (other than the delivery of a Notice of Borrowing) and provided that, after giving effect to such Borrowing, the sum of all Tranche A Revolving Loans outstanding plus all Bid Loans outstanding plus all L/C Obligations outstanding plus all Swing Line Loans outstanding shall not exceed the Tranche A Revolving Committed Amount. Any notice given by the applicable L/C Issuer or the Agent pursuant to this Section 2.19(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Tranche A Lender shall upon any notice pursuant to Section 2.19(c)(i) make funds available (and the Agent may apply Cash Collateral provided for this purpose) for the account of the applicable L/C Issuer at the Agent’s Office in an amount equal to its Revolving Commitment Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Agent, whereupon, subject to the provisions of Section 2.19(c)(iii), each Tranche A Lender that so makes funds available shall be deemed to have made a Tranche A Revolving Loan that is a Base Rate Loan to the Borrower in such amount. The Agent shall remit the funds so received to the applicable L/C Issuer.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Borrowing of Tranche A Revolving Loans that are Base Rate Loans because the conditions set forth in Section 3.2 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable 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 Post-Default Rate. In such event, each Tranche A Lender’s payment to the Agent for the account of the applicable L/C Issuer pursuant to Section 2.19(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Tranche A Lender in satisfaction of its participation obligation under this Section 2.19.

(iv) Until each Tranche A Lender funds its Tranche A Revolving Loan or L/C Advance pursuant to this Section 2.19(c) to reimburse the applicable L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Tranche A Lender’s Revolving Commitment Percentage of such amount shall be solely for the account of such L/C Issuer.

(v) Each Tranche A Lender’s obligation to make Tranche A Revolving Loans or L/C Advances to reimburse the applicable L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.19(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 Tranche A Lender may have against such L/C Issuer, the Borrower or any other Person for any reason whatsoever; (B) solely with respect to L/C Advances, 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, however, that each Tranche A Lender’s obligation to make Tranche A Revolving Loans pursuant to this Section 2.19(c) is subject to the conditions set forth in Section 3.2 (other than delivery by the Borrower of a Notice of Borrowing). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the applicable 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.

(vi) If any Tranche A Lender fails to make available to the Agent for the account of the applicable L/C Issuer any amount required to be paid by such Tranche A Lender pursuant to the foregoing provisions of this Section 2.19(c) by the time specified in

Section 2.19(c)(ii), then, without limiting the other provisions of this Agreement, such L/C Issuer shall be entitled to recover from such Tranche A Lender (acting through the 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 the Overnight Rate, plus any administrative, processing or similar fees customarily charged by such L/C Issuer in connection with the foregoing. If such Tranche A Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Tranche A Lender's Tranche A Revolving Loan included in the relevant Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the applicable L/C Issuer submitted to any Tranche A Lender (through the Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after the applicable L/C Issuer has made a payment under any Letter of Credit and has received from any Tranche A Lender such Tranche A Lender's L/C Advance in respect of such payment in accordance with Section 2.19(c), if such L/C Issuer or the 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 Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Agent), such L/C Issuer shall turn over such payment to the Agent for distribution to such Tranche A Lender or the Agent will distribute to such Tranche A Lender, in each case, its Revolving Commitment Percentage thereof in the same funds as those received by the Agent.

(ii) If any payment received by an L/C Issuer or the Agent for the account of such L/C Issuer pursuant to Section 2.19(c)(i) is required to be returned under any of the circumstances described in Section 8.5 (including pursuant to any settlement entered into by such L/C Issuer in its discretion), each Tranche A Lender shall pay to the Agent for the account of such L/C Issuer its Revolving Commitment Percentage thereof on demand of the Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Tranche A Lender, at a rate per annum equal to the Overnight Rate. The obligations of the Tranche A 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 Borrower to reimburse the applicable L/C Issuer for each drawing under each Letter of Credit 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 Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), such 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) waiver by such L/C Issuer of any requirement that exists for such L/C Issuer's protection and not the protection of the Borrower or any waiver by such L/C Issuer which does not in fact materially prejudice the Borrower;

(v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vi) any payment made by such L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vii) any payment by such 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 such 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 the Bankruptcy Code or any similar proceeding under any other Applicable Law; or

(viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower or any Subsidiary.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the applicable L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against the applicable L/C Issuer and its correspondents unless such notice is given as aforesaid.

(f) Role of L/C Issuer. Each Tranche A Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the applicable L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by such 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, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuers shall be liable to any Tranche A Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Tranche A Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuers, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuers shall be liable or responsible for any of the matters described in clauses (i) through (viii) of Section 2.19(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the applicable L/C Issuer, and such L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by such L/C Issuer's willful misconduct or gross negligence or such L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, 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 such L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. Any L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) Applicability of ISP and UCP. Unless otherwise expressly agreed by the applicable L/C Issuer and the Borrower when a Letter of Credit is issued, (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the UCP at the time of issuance shall apply to each commercial Letter of Credit. Notwithstanding the foregoing, no L/C Issuer shall be responsible to the Borrower for, and such L/C Issuer's rights and remedies against the Borrower shall not be impaired by, any action or inaction of such L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Applicable Law or any order of a jurisdiction where such L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(h) Letter of Credit Fees. The Borrower shall pay to the Agent for the account of each Tranche A Lender in accordance with its Revolving Commitment Percentage a Letter of Credit fee (the "Letter of Credit Fee") (i) for each commercial Letter of Credit equal to the Applicable Margin times the daily amount available to be drawn under such Letter of Credit and (ii) for each standby Letter of Credit equal to the Applicable Margin times the daily amount available to be drawn under such Letter of Credit; provided, however, any Letter of Credit Fees otherwise payable for the account of a Defaulting Lender with respect to any Letter of Credit as to which such Defaulting Lender has not provided Cash Collateral satisfactory to the applicable L/C Issuer pursuant to this Section 2.19 shall be payable, to the maximum extent permitted by Applicable Law, to the other Tranche A Lenders in accordance with the upward adjustments in their respective Revolving Commitment Percentages allocable to such Letter of Credit pursuant to Section 2.22(a)(iv), with the balance of such fee, if any, payable to the applicable L/C Issuer for its own account. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.3. Letter of Credit Fees shall be (i) due and payable on the first Business Day after the end 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 Letter of Credit Expiration Date and thereafter on demand and (ii) computed on a quarterly basis in arrears. If there is any change in the Applicable Margin during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Margin separately for each period during such quarter that such Applicable Margin was in effect. Notwithstanding anything to the contrary contained herein, upon the request of the Required Lenders, while any Event of Default exists, all Letter of Credit Fees shall accrue at the Post-Default Rate.

(i) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrower shall pay directly to the applicable L/C Issuer for its own account a fronting fee (i) with respect to each commercial Letter of Credit, at the rate separately agreed between the Borrower and such L/C Issuer, computed on the amount of such Letter of Credit, and payable upon the issuance thereof, (ii) with respect to any amendment of a commercial Letter of Credit increasing the amount of such Letter of Credit, at a rate separately agreed between the Borrower and such L/C Issuer, computed on the amount of such increase, and payable upon the effectiveness of such amendment, and (iii) with respect to each standby Letter of Credit, at the rate separately agreed between the Borrower and such L/C Issuer, computed on the daily amount available to be drawn under such Letter of Credit and on a quarterly basis in arrears. Such fronting fee shall be due and payable on the first Business Day after the end of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.3. In addition, the Borrower shall pay directly to the applicable 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 on demand and are nonrefundable.

(j) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(k) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated to reimburse the applicable L/C Issuer hereunder for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

(l) Letters of Credit Reports. Unless otherwise agreed by the Agent, each L/C Issuer shall, in addition to its notification obligations set forth elsewhere in this Section, provide the Agent a Letter of Credit Report, as set forth below:

(i) reasonably prior to the time that such L/C Issuer issues, amends, renews, increases or extends a Letter of Credit, the date of such issuance, amendment, renewal, increase or extension and the stated amount of the applicable Letters of Credit after giving effect to such issuance, amendment, renewal or extension (and whether the amounts thereof shall have changed);

(ii) on each Business Day on which such L/C Issuer makes a payment pursuant to a Letter of Credit, the date and amount of such payment;

(iii) on any Business Day on which the Borrower fails to reimburse a payment made pursuant to a Letter of Credit required to be reimbursed to such L/C Issuer on such day, the date of such failure and the amount of such payment;

(iv) on any other Business Day, such other information as the Agent shall reasonably request as to the Letters of Credit issued by such L/C Issuer; and

(v) for so long as any Letter of Credit issued by an L/C Issuer is outstanding, such L/C Issuer shall deliver to the Agent (A) on the last Business Day of each calendar month, (B) at all other times a Letter of Credit Report is required to be delivered pursuant to this Agreement, and (C) on each date that (1) an L/C Credit Extension occurs or (2) there is any expiration, cancellation and/or disbursement, in each case, with respect to any such Letter of Credit, a Letter of Credit Report appropriately completed with the information for every outstanding Letter of Credit issued by such L/C Issuer.

(m) Additional L/C Issuers. Any Lender hereunder may become an L/C Issuer upon receipt by the Agent of a fully executed Additional L/C Issuer Notice which shall be signed by the Borrower, the Agent and each L/C Issuer.

2.20 Swing Line Loans

(a) Swing Line Facility. Subject to the terms and conditions set forth herein, the Swing Line Lender, in reliance upon the agreements of the other Tranche A Lenders set forth in this Section 2.20, may in its sole discretion make loans (each such loan, a "Swing Line Loan") to the Borrower in Dollars at any time from and after the Closing Date until the Business Day next preceding the Revolving Commitment Termination Date in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit or the Swing Line Lender's Swing Line Commitment, notwithstanding the fact that such Swing Line Loans, when aggregated with the Revolving Commitment Percentage of the outstanding amount of Tranche A Revolving Loans, Bid Loans and L/C Obligations of the Tranche A Lender acting as Swing Line Lender, may exceed the amount of such Tranche A Lender's Revolving Commitment; provided, however, that (i) after giving effect to any Swing Line Loan (x) the sum of all Tranche A Revolving Loans outstanding plus all Bid Loans outstanding plus all L/C Obligations outstanding plus all Swing Line Loans outstanding shall not exceed the Tranche A Revolving Committed Amount and (y) with respect to each individual Tranche A Lender, such Tranche A Lender's pro rata share of outstanding Tranche A Revolving Loans plus such Tranche A Lender's pro rata share of outstanding L/C Obligations plus such Tranche A Lender's pro rata share of outstanding Swing Line Loans shall not exceed such Tranche A Lender's Revolving Commitment Percentage of the Tranche A Revolving Committed Amount, (ii) the Borrower shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan and (iii) the Swing Line Lender shall not be under any obligation to make any Swing Line Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such extensions of credit will have, Fronting Exposure. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.20, prepay under Section 2.8, and reborrow under this Section 2.20. Each Swing Line Loan shall bear interest only at a rate based on the Base Rate plus the Applicable Margin for Base Rate Loans. Immediately upon the making of a Swing Line Loan, each Tranche A 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 Tranche A Lender's Revolving Commitment Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Borrowing of Swing Line Loans shall be made upon the Borrower's irrevocable notice to the Swing Line Lender and the Agent, which may be given by (A) telephone or (B) a Swing Line Loan Notice; provided that any telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and the Agent of a Swing Line Loan Notice. Each such notice must be received by the Swing Line Lender and the Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum principal amount of \$500,000 and integral multiples of \$100,000 in excess thereof, and

(ii) the requested borrowing date, which shall be a Business Day. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will confirm with the Agent (by telephone or in writing) that the Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Agent (including at the request of any Tranche A Lender) prior to 2:00 p.m. on the date of the proposed Borrowing of Swing Line Loans (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the first proviso to the first sentence of Section 2.20(a), or (B) that one or more of the applicable conditions specified in Article 3 is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender will, not later than 3:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrower.

(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 Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Tranche A Lender make a Tranche A Revolving Loan that is a Base Rate Loan in an amount equal to such Tranche A Lender's Revolving Commitment Percentage 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 Notice of Borrowing for purposes hereof) and in accordance with the requirements of Section 2.1(b), without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the conditions set forth in Section 3.2 (other than the delivery of a Notice of Borrowing) and provided that, after giving effect to such Borrowing, the sum of all Tranche A Revolving Loans outstanding plus all Bid Loans outstanding plus all L/C Obligations outstanding plus all Swing Line Loans outstanding shall not exceed the Tranche A Revolving Committed Amount. The Swing Line Lender shall furnish the Borrower with a copy of the applicable Notice of Borrowing promptly after delivering such notice to the Agent. Each Tranche A Lender shall make an amount equal to its Revolving Commitment Percentage of the amount specified in such Notice of Borrowing available to the Agent in Same Day Funds for the account of the Swing Line Lender at the Agent's Office not later than 1:00 p.m. on the day specified in such Notice of Borrowing, whereupon, subject to Section 2.20(c)(ii), each Tranche A Lender that so makes funds available shall be deemed to have made a Tranche A Revolving Loan that is a Base Rate Loan to the Borrower in such amount. The 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 Borrowing of Tranche A Revolving Loans in accordance with Section 2.20(c)(i), the request for Tranche A Revolving Loans that are 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 Tranche A Lenders fund its risk participation in the relevant Swing Line Loan and each Tranche A Lender's payment to the Agent for the account of the Swing Line Lender pursuant to Section 2.20(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Tranche A Lender fails to make available to the Agent for the account of the Swing Line Lender any amount required to be paid by such Tranche A Lender pursuant to the foregoing provisions of this Section 2.20(c) by the time specified in Section 2.20(c)(i), the Swing Line Lender shall be entitled to recover from such Tranche A Lender (acting through the 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 Overnight Rate, plus any administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Tranche A Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Tranche A Lender's Tranche A Revolving Loan included in the relevant Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Tranche A Lender (through the Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Tranche A Lender's obligation to make Tranche A Revolving Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.20(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right that such Tranche A Lender may have against the Swing Line Lender, the 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, however, that each Tranche A Lender's obligation to make Tranche A Revolving Loans pursuant to this Section 2.20(c) is subject to the conditions set forth in Section 3.2. No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Tranche A 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 Tranche A Lender its Revolving Commitment Percentage thereof 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 2.8(d) (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Tranche A Lender shall pay to the Swing Line Lender its Revolving Commitment Percentage thereof on demand of the 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 Overnight Rate. The Agent will make such demand upon the request of

the Swing Line Lender. The obligations of the Tranche A Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans. Until each Tranche A Lender funds its Tranche A Revolving Loans that are Base Rate Loans or risk participation pursuant to this Section 2.20 to refinance such Tranche A Lender's Revolving Commitment Percentage of any Swing Line Loan, interest in respect of such Revolving Commitment Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. The Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

2.21 Cash Collateral

(a) Certain Credit Support Events. Upon the request of the Agent or the applicable L/C Issuer (i) if such L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing, or (ii) if, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then outstanding amount of all L/C Obligations. At any time that there shall exist a Defaulting Lender, immediately upon the request of the Agent or the applicable L/C Issuer, the Borrower shall deliver to the Agent Cash Collateral in an amount sufficient to cover all Fronting Exposure (after giving effect to Section 2.22(a)(iv) and any Cash Collateral provided by the Defaulting Lender). For purposes of clarification, if Fronting Exposure remains after giving effect to Section 2.22(a)(iv), the Agent shall first request that the Defaulting Lender deliver to the Agent Cash Collateral in an amount sufficient to cover the remaining Fronting Exposure and, second, to the extent Fronting Exposure remains after giving effect to Cash Collateral provided by the Defaulting Lender, the Agent shall request that the Borrower deliver to the Agent Cash Collateral in an amount sufficient to cover the remaining Fronting Exposure.

(b) Grant of Security Interest. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing deposit accounts at Bank of America. The Borrower, and to the extent provided by any Lender, such Lender, hereby grants to (and subjects to the control of) the Agent, for the benefit of the Agent, the L/C Issuers and the Lenders, and agrees to maintain, a first priority security interest in all such Cash Collateral provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.21(c). If at any time the Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Agent or an L/C Issuer as herein provided, or that the total amount of such Cash Collateral is less than the applicable Fronting Exposure and other obligations secured thereby, the Borrower or the relevant Defaulting Lender will, promptly upon demand by the Agent, pay or provide to the Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.21 or Sections 2.8, 2.19, 2.20, 2.22 or 7.2 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such Cash Collateral as may be provided for in this Section 2.21.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 9.6(b)(vi))) or (ii) upon the Borrower's request if there exists excess Cash Collateral; provided, however, (x) that Cash Collateral furnished by or on behalf of the Borrower shall not be released during the continuance of a Default or Event of Default (and following application as provided in this Section 2.21 may be otherwise applied in accordance with Section 7.3), and (y) the Person providing Cash Collateral and the applicable L/C Issuer may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

2.22 Defaulting Lenders

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

(i) Waivers and Amendments. That Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 9.3.

(ii) Reallocation of Payments. Any payment of principal, interest, fees or other amounts received by the Agent hereunder for the account of that Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 8 or otherwise, and including any amounts made available to the Agent by that Defaulting Lender pursuant to Section 9.7), shall be applied at such time or times as may be determined by the Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to the L/C Issuers or Swing Line Lender hereunder; third, if so determined by the Agent or requested by any L/C Issuer or the Swing Line Lender, to be held as Cash Collateral for future funding obligations of that Defaulting Lender of any participation in any Swing Line Loan or Letter of Credit; fourth, as the 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, as determined by the Agent; fifth, if so determined by the Agent and the Borrower, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; sixth, to the payment of any amounts owing to the Lenders, the L/C Issuers or 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, so long as no Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and eighth, 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 3.2 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 2.22(a)(ii) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) That Defaulting Lender (x) shall be entitled to receive any Facility Fee pursuant to Section 2.6(a) for any period during which that Lender is a Defaulting Lender only to extent allocable to the sum of (1) the outstanding amount of the Loans funded by it and (2) its Revolving Commitment Percentage of the stated amount of Letters of Credit and Swing Line Loans for which it has provided Cash Collateral pursuant to Section 2.19, Section 2.20, Section 2.21, or Section 2.22(a)(ii), as applicable (and the Borrower shall (A) be required to pay to each of the L/C Issuer and the Swing Line Lender, as applicable, the amount of such fee allocable to its Fronting Exposure arising from that Defaulting Lender and (B) not be required to pay the remaining amount of such fee that otherwise would have been required to have been paid to that Defaulting Lender) and (y) shall be limited in its right to receive Letter of Credit Fees as provided in Section 2.19(h).

(B) Each Defaulting Lender that is a Tranche A Lender shall be entitled to receive Letter of Credit Fees for any period during which that Tranche A Lender is a Defaulting Lender only to the extent allocable to its Revolving Commitment Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.21.

(C) With respect to any fee payable under Section 2.6(a) or any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (x) pay to each non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations or Swing Line Loans that has been reallocated to such non-Defaulting Lender pursuant to clause (a)(iv) below, (y) pay to the L/C Issuers and Swing Line Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's or Swing Line Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Revolving Commitment Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations and Swing Line Loans shall be reallocated among the non-Defaulting Lenders that are Tranche A Lenders in accordance with their respective Revolving Commitment Percentages (calculated without regard to such Defaulting Lender's Revolving Commitment) but only to the extent that such reallocation does not cause the aggregate Tranche A Revolving Credit Exposure of any non-Defaulting Lender to exceed such non-Defaulting Lender's Revolving Commitment. Subject to Section 9.21, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a non-Defaulting Lender as a result of such non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swing Line Loans. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under Applicable Law, (x) first, prepay Swing Line Loans in an amount equal to the Swing Line Lenders' Fronting Exposure and (y) second, Cash Collateralize the L/C Issuers' Fronting Exposure in accordance with the procedures set forth in Section 2.21.

For purposes of clarification, the operation of the provisions in this Section 2.22(a) shall not result in a breach of the Borrower's obligations to the Defaulting Lender under this Agreement.

(b) Defaulting Lender Cure. If the Borrower, the Agent, the Swing Line Lender and the L/C Issuers agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be a Defaulting Lender, the Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their Revolving Commitment Percentages (without giving effect to Section 2.22(a)(iv)), whereupon that Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was

a Defaulting Lender; and provided, 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.

2.23 Extension of Maturity Date

(a) At least 30 days but not more than 60 days prior to any anniversary of the Closing Date, the Borrower, by written notice to the Agent, may request, up to two (2) times during the term of this Agreement, an extension of the Maturity Date in effect at such time by one year from its then scheduled expiration. The Agent shall promptly notify each Lender of such request, and each Lender shall in turn, in its sole discretion, not later than 20 days prior to such anniversary date, notify the Borrower and the Agent in writing as to whether such Lender will consent to such extension. If any Lender shall fail to notify the Agent and the Borrower in writing of its consent to any such request for extension of the Maturity Date at least 20 days prior to the applicable anniversary date, such Lender shall be deemed to be a Non-Extending Lender with respect to such request. The Agent shall notify the Borrower not later than 15 days prior to the applicable anniversary date of the decision of the Lenders regarding the Borrower's request for an extension of the Maturity Date.

(b) If all of the Lenders consent in writing to any such request in accordance with subsection (a) of this Section 2.23, upon receipt of a consent executed by the Lenders and the Borrower, the Maturity Date in effect at such time shall, effective as at the applicable anniversary date (the "Extension Date"), be extended for one year; provided that on any Extension Date the representations and warranties of the Borrower contained in Article IV are correct on and as of such Extension Date, before and after giving effect to such extension of the Maturity Date, as though made on and as of such Extension Date, and no Default or Event of Default shall have occurred and be continuing on such Extension Date. If less than all of the Lenders consent in writing to any such request in accordance with subsection (a) of this Section 2.23, upon receipt of a consent executed by those Lenders that so consented (each an "Extending Lender") and the Borrower, the Maturity Date in effect at such time shall, effective as at the applicable Extension Date and subject to subsection (d) of this Section 2.23, be extended as to the Extending Lenders but shall not be extended as to any other Lender (each a "Non-Extending Lender"). To the extent that the Maturity Date is not extended as to any Lender pursuant to this Section 2.23 and the Revolving Commitment of such Lender is not assumed in accordance with subsection (c) of this Section 2.23 on or prior to the applicable Extension Date, the Revolving Commitment of such Non-Extending Lender shall automatically terminate in whole on such unextended Maturity Date without any further notice or other action by the Borrower, such Lender or any other Person; provided that such Non-Extending Lender's rights under Sections 2.13, 2.14, 2.16, 9.1 and 9.2, and its obligations under Section 9.2(b), shall survive the Maturity Date for such Non-Extending Lenders as to matters occurring prior to such date. It is understood and agreed that no Lender shall have any obligation whatsoever to agree to any request made by the Borrower for any requested extension of the Maturity Date.

(c) If less than all of the Lenders consent to any such request pursuant to subsection (a) of this Section 2.23, the Agent shall promptly so notify the Extending Lenders, and each Extending Lender may, in its sole discretion, give written notice to the Agent not later than 10 days prior to the Extension Date of the amount of the Non-Extending Lenders' Revolving Commitments for which it is willing to accept an assignment. If the Extending Lenders notify the Agent that they are willing to accept assignments of Revolving Commitments in an aggregate amount that exceeds the amount of the Revolving Commitments of the Non-Extending Lenders, such Revolving Commitments shall be allocated among the Extending Lenders willing to accept such assignments in such amounts as are agreed between the Borrower and the Agent. If after giving effect to the assignments of Revolving Commitments described above there remains any Revolving Commitments of Non-Extending Lenders, the Borrower may arrange for one or more Extending Lenders or other Eligible Assignees (any such Eligible Assignee to be referred to herein as an "Assuming Lender") to assume, effective as of the Extension Date, any Non-Extending Lender's Revolving Commitment and all of the obligations of such Non-Extending Lender under this Agreement thereafter arising, without recourse to or warranty by, or expense to, such Non-Extending Lender; provided, however, that the amount of the Revolving Commitment of any such Assuming Lender as a result of such substitution shall in no event be less than \$10,000,000 unless the amount of the Revolving Commitment of such Non-Extending Lender is less than \$10,000,000, in which case such Assuming Lender shall assume all of such lesser amount; and provided further that:

(i) any such Extending Lender or Assuming Lender shall have paid to such Non-Extending Lender (A) the aggregate principal amount of, and any interest accrued and unpaid to the effective date of the assignment on, the outstanding Loans, if any, of such Non-Extending Lender plus (B) any accrued but unpaid facility fees owing to such Non-Extending Lender as of the effective date of such assignment;

(ii) all additional cost reimbursements, expense reimbursements and indemnities payable to such Non-Extending Lender, and all other accrued and unpaid amounts owing to such Non-Extending Lender hereunder, as of the effective date of such assignment shall have been paid to such Non-Extending Lender; and

(iii) with respect to any such Assuming Lender, the applicable processing and recordation fee required under Section 9.6(b) for such assignment shall have been paid;

provided further that such Non-Extending Lender's rights under Sections 2.13, 2.14, 2.16, 9.1 and 9.2, and its obligations under Section 9.2(b), shall survive such substitution as to matters occurring prior to the date of substitution. At least three Business Days prior to any Extension Date, (A) each such Assuming Lender, if any, shall have delivered to the Borrower and the Agent an Assignment and Assumption, duly executed by such Assuming Lender, such Non-Extending Lender, the Borrower and the Agent, (B) any such Extending Lender shall have delivered confirmation in writing satisfactory to the Borrower and the Agent as to the increase in the amount of its Revolving Commitment and (C) each Non-Extending Lender being replaced pursuant to this Section 2.23 shall have used its commercially reasonable efforts to deliver to the Agent any Note or Notes held by such Non-Extending

Lender. Upon the payment or prepayment of all amounts referred to in clauses (i), (ii) and (iii) of subsection (c) of this Section 2.23, each such Extending Lender or Assuming Lender, as of the Extension Date, will be substituted for such Non-Extending Lender under this Agreement and shall be a Lender for all purposes of this Agreement, without any further acknowledgement by or the consent of the other Lenders, and the obligations of each such Non-Extending Lender hereunder shall, by the provisions hereof, be released and discharged.

(d) If (after giving effect to any assignments or assumptions pursuant to subsection (c) of this Section 2.23) Lenders have Revolving Commitments equal to at least 50% of the Revolving Commitments in effect immediately prior to the Extension Date consent to a requested extension not later than one Business Day prior to such Extension Date, the Agent shall so notify the Borrower, and, subject to (i) the representations and warranties of the Borrower contained in Article IV being correct on and as of the date of such extension of the Maturity Date, before and after giving effect thereto, as though made on and as of such date, (ii) no Default or Event of Default having occurred and being continuing on the Extension Date and (iii) execution of a consent by the Extending Lenders, Assuming Lenders and the Borrower, the Maturity Date then in effect shall be extended for the additional one-year period as described in subsection (a) of this Section 2.23, and all references in this Agreement, and in the Notes, if any, to the "Maturity Date" shall, with respect to each Extending Lender and each Assuming Lender for such Extension Date, refer to the Maturity Date as so extended. Promptly following each Extension Date, the Agent shall notify the Lenders (including, without limitation, each Assuming Lender) of the extension of the scheduled Maturity Date in effect immediately prior thereto and shall thereupon record in the Register the relevant information with respect to each such Extending Lender and each such Assuming Lender.

ARTICLE III.

CONDITIONS TO LOANS

3.1 Closing Conditions

The obligation of the Lenders to enter into this Agreement shall be subject to satisfaction (or waiver) of the following conditions:

(a) Loan Documents. The Agent shall have received duly executed copies of (i) this Agreement and (ii) the Notes, if any, all of which shall be in form and substance satisfactory to the Agent and each of the Lenders.

(b) Corporate Documents. The Agent shall have received the following:

(i) Charter Documents. Copies of the articles or certificate of incorporation of the Borrower certified to be true and complete as of a recent date by the appropriate Governmental Authority of the state of its incorporation and certified by a secretary or assistant secretary of the Borrower to be true and correct as of the Closing Date.

(ii) Bylaws. A copy of the bylaws of the Borrower certified by a secretary or assistant secretary of the Borrower to be true and correct as of the Closing Date.

(iii) Resolutions. Copies of resolutions of the board of directors of the Borrower or an authorized committee thereof, approving and adopting the transactions contemplated herein and authorizing execution and delivery of the Loan Documents, certified by a secretary or assistant secretary of the Borrower to be true and correct and in full force and effect as of the Closing Date.

(iv) Good Standing. Copies of a certificate of good standing, existence or its equivalent with respect to the Borrower certified as of a recent date by the appropriate Governmental Authority of the state of its incorporation.

(v) Incumbency. An incumbency certificate of the Borrower certified by a secretary or assistant secretary of the Borrower to be true and correct as of the Closing Date.

(c) Opinion of Counsel. The Agent shall have received an opinion or opinions (which shall cover, among other things, authority, legality, validity, binding effect and enforceability), satisfactory to the Agent, addressed to the Lender Parties and dated as of the Closing Date, from legal counsel to the Borrower.

(d) Closing Officer's Certificate. The Agent shall have received a certificate executed by the chief financial officer of the Borrower in the form of Exhibit 3.1(d).

(e) Material Adverse Change. As of the Closing Date, there shall not have occurred a Material Adverse Change since February 3, 2018.

(f) Litigation. Except as disclosed in Schedule 4.5, there are no actions, suits or proceedings pending or, to the best knowledge of the Borrower, threatened against or affecting the Borrower, any Subsidiary or any of its properties before any Governmental Authority (i) in which there is a reasonable possibility of an adverse determination that could result in a material liability or have a Material Adverse Effect or (ii) that in any manner draws into question the validity, legality or enforceability of any Loan Document or any transaction contemplated thereby.

(g) Fees, Expenses and Interest Paid. The Borrower shall have paid all fees and expenses due and owing pursuant to the terms of this Agreement for which the Borrower shall have been billed on or before the Closing Date, including, but not limited to, fees owed pursuant to (i) the Agent Fee Letter, (ii) that certain fee letter dated as of August 28, 2018 by and among the Borrower, Bank of America, MLPF&S, Wells Fargo Bank, National Association and U.S. Bank National Association, (iii) that certain fee letter dated as of August 28, 2018 by and among the Borrower, Wells Fargo Bank, National Association and Wells Fargo Securities, LLC and (iv) that certain fee letter dated as of August 28, 2018 by and between the Borrower and U.S. Bank National Association.

(h) Existing Credit Agreement. The Existing Credit Agreement shall be terminated and all amounts owing there under, if any, shall have been paid in full.

(i) General. All other documents and legal matters in connection with the transactions contemplated by this Agreement shall have been delivered or executed or recorded in form and substance satisfactory to the Agent, and the Agent shall have received all such counterpart originals or certified copies thereof as the Agent may reasonably request.

Without limiting the generality of the provisions of Section 8.4, for purposes of determining compliance with the conditions specified in this Section 3.1, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

3.2 Conditions Precedent to Loans

The obligation of the Lenders to make any Loan or an L/C Issuer to make any L/C Credit Extension on any Funding Date shall be subject to the following conditions precedent:

(a) Closing Date. The conditions precedent set forth in Section 3.1 shall have been satisfied or waived in writing by the Lenders as of the Closing Date.

(b) Notice of Borrowing. The Borrower shall have delivered to the Agent and, if applicable, the applicable L/C Issuer or the Swing Line Lender, (i) in the case of a Revolving Loan, a Notice of Borrowing, duly executed and completed in accordance with Section 2.1, and the Borrower shall have otherwise complied with all of the terms of Section 2.1, (ii) in the case of a Bid Loan, a Bid Loan Quote Request, duly executed and completed, in accordance with Section 2.2, and the Borrower shall have otherwise complied with all of the terms of Section 2.2, (iii) in the case of an L/C Credit Extension, a Letter of Credit Application, duly executed and completed in accordance with Section 2.19(b)(i), and the Borrower shall have otherwise complied with all of the terms of Section 2.19 and (iv) in the case of a Swing Line Loan, a Swing Line Loan Notice, duly executed and completed in accordance with Section 2.20(b), and the Borrower shall have otherwise complied with all of the terms of Section 2.20.

(c) Representations and Warranties. All of the representations and warranties of the Borrower contained in the Loan Documents shall be true and correct in all material respects on and as of the Funding Date as though made on and as of that date; provided that, in each case, such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof.

(d) No Default. No Default or Event of Default shall exist or result from the making of the Loan.

(e) Canadian Dollars. In the case of a Loan to be denominated in Canadian Dollars, there shall not have occurred any change in national or international financial, political or economic conditions or currency exchange rates or exchange controls which in the reasonable opinion of the Agent or the Tranche B Required Lenders would make it impracticable for such Loan to be denominated in Canadian Dollars.

(f) Satisfaction of Conditions. Each borrowing of a Loan shall constitute a representation and warranty by the Borrower as of the Funding Date that the conditions contained in Sections 3.2(c) and 3.2(d) have been satisfied.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lender Parties as follows:

4.1 Organization, Powers and Good Standing

(a) Each of the Loan Parties and, except as would not reasonably be expected to have a Material Adverse Effect, their Subsidiaries (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, as shown on Schedule 4.1, and (ii) has all requisite power and authority and the legal right to own and operate its properties, to carry on its business as heretofore conducted, to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated hereby and thereby. Except as would not reasonably be expected to have a Material Adverse Effect, each of the Borrower and its Subsidiaries possesses all Governmental Approvals, in full force and effect, free from burdensome restrictions, that are necessary for the ownership, maintenance and operation of its

properties and conduct of its business as now conducted, and is not in violation thereof. Each of the Borrower and its Subsidiaries is duly qualified, in good standing and authorized to do business in each state or other jurisdiction where the nature of its business activities conducted or properties owned or leased requires it to be so qualified and where any failure to be so qualified, individually or in the aggregate, could have a Material Adverse Effect.

(b) Set forth on Schedule 4.1 is an indication as to whether a Subsidiary is a Material Subsidiary and a Loan Party as of the First Amendment Date (and as of each date such schedule is required to be updated pursuant to Section 5.1(i)) and if such Subsidiary is a Loan Party, (i) the exact legal name, (ii) any former legal names in the four (4) months prior to the First Amendment Effective Date, (iii) the type of organization, (iv) the chief executive office, and (v) the U.S. federal taxpayer identification number or, other applicable unique identification number issued to it by the jurisdiction of its incorporation or organization.

4.2 Authorization, Binding Effect, No Conflict, Etc .

(a) Authorization, Binding Effect, Etc. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party have been duly authorized by all necessary corporate action on the part of such Loan Party; and each such Loan Document has been duly executed and delivered by each Loan Party that is party thereto and is the legal, valid and binding obligation of such Loan Party, enforceable against it in accordance with its terms, except as enforcement may be limited by equitable principles and by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to creditors' rights generally.

(b) No Conflict. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party, and the consummation of the transactions contemplated thereby, do not and will not (i) violate any provision of the charter or other organizational documents of such Loan Party, (ii) except for consents that have been obtained and are in full force and effect, conflict with, result in a breach of, or constitute (or, with the giving of notice or lapse of time or both, would constitute) a default under, or require the approval or consent of any Person pursuant to, any Material Contractual Obligation of such Loan Party, (iii) violate any Applicable Law binding on such Loan Party, or (iv) result in or require the creation or imposition of any Lien on any assets or properties of the Borrower or any of its Subsidiaries.

(c) Governmental Approvals. No Governmental Approval is required in connection with the (i) execution, delivery and performance by each Loan Party of any Loan Document to which it is a party or the transactions contemplated thereby, (ii) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents, (iii) the perfection or maintenance of the Liens created under the Collateral Documents or (iv) as of the date of such representation, the exercise by the Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, other than (x) authorizations, approvals, actions, notices and filings which have been duly obtained and (y) filings to perfect the Liens created by the Collateral Documents.

4.3 Financial Information .

The balance sheets of the Borrower and its consolidated Subsidiaries as of February 3, 2018 and the related statements of earnings, stockholder's equity and cash flow for the Fiscal Year then ended, certified by the Borrower's independent certified public accountants, which are included in the Borrower's Annual Report on Form 10-K for the Fiscal Year ended February 3, 2018, were prepared in accordance with GAAP consistently applied and fairly present the financial position of the Borrower and its consolidated Subsidiaries as of the date thereof and the results of operations and cash flow for the period then ended. Neither the Borrower nor any of its consolidated Subsidiaries on such date had any liabilities for Taxes or long-term leases, forward or long-term commitments or unrealized losses from any unfavorable commitments that are not reflected in the foregoing statements or in the notes thereto and that, individually or in the aggregate, are material.

4.4 No Material Adverse Changes .

Since February 3, 2018, there has been no Material Adverse Change; provided, that, for purposes of determining the accuracy of the representation and warranty set forth in this Section 4.4, the impacts of the recent novel coronavirus COVID-19 on the business, assets, liabilities, results of operations or condition (financial or otherwise) of the Borrower and its Subsidiaries taken as a whole, disclosed in any report filed prior to the First Amendment Effective Date on Form 8-K with the SEC will be disregarded.

4.5 Litigation .

Except as disclosed in Schedule 4.5 or as otherwise disclosed in accordance with Section 5.1(g) below, there are no actions, suits or proceedings pending or, to the best knowledge of the Borrower, threatened against or affecting any Loan Party, any Subsidiary or any of its properties before any Governmental Authority (a) in which there is a reasonable possibility of an adverse determination that could result in a material liability or have a Material Adverse Effect or (b) that in any manner draws into question the validity, legality or enforceability of any Loan Document or any transaction contemplated thereby.

4.6 Agreements: Applicable Law .

Neither the Borrower nor any Loan Party is in material violation of any Applicable Law, or in default under its charter documents, bylaws or other organizational or governing documents or any of its Material Contractual Obligations.

4.7 **Insurance.**

The property and general liability insurance coverage of the Loan Parties as in effect on the Closing Date is outlined as to carrier, policy number, expiration date, type, amount and deductibles on Schedule 4.7.

4.8 **Governmental Regulation .**

The Borrower is neither an “investment company” registered or required to be registered under the Investment Company Act of 1940, as amended, or a company controlled by such a company, nor is the Borrower subject to any federal or state statute or regulation limiting its ability to incur Debt for money borrowed (other than the Margin Regulations).

4.9 **Margin Regulations/Proceeds of Loans .**

Neither the Borrower nor any Subsidiary is engaged principally, or as one of its important activities, in the business of extending credit for the purposes of purchasing or carrying Margin Stock. The value of all Margin Stock held by the Borrower and its Subsidiaries constitutes less than 25% of the value, as determined in accordance with the Margin Regulations, of all assets of the Borrower. The proceeds of the Loans will be and have been used solely in accordance with Section 2.3.

4.10 **Employee Benefit Plans .**

None of the Plans of the Borrower or any member of the Controlled Group are in “at risk status” (as defined in Section 430(i)(4) of the Code, without regard to Section 430(i)(4)(B) relating to the transition rule) and no Plan has incurred any liability to the PBGC in connection with any Plan.

During the five-year period prior to the date this representation is made or deemed made, no ERISA Event has occurred and is continuing with respect to any Plan (whether or not terminated). Neither the Borrower nor any member of the Controlled Group is required to make or accrue a contribution or has within any of the preceding five plan years made or accrued an obligation to make contributions to any Multiemployer Plan. To the extent the Borrower in the future has or enters into any applicable Plan, the fair market value of the assets of each Plan is at least equal to the present value of the “benefit liabilities” (within the meaning of Section 4001(a)(16) of ERISA), whether or not vested, under such Plan determined in accordance with Financial Accounting Standards Board Statement 87 using the actuarial assumptions and methods used by the actuary to such Plan in its valuation of such Plan.

As of the Closing Date, the Borrower is not and will not be using “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Revolving Commitments.

Each Canadian Pension Plan is in compliance in all material respects with the applicable provisions of all Applicable Laws and (ii) each Canadian Pension Plan has received a confirmation of registration from the Canada Revenue Agency and, to the best knowledge of the Loan Parties, nothing has occurred which would prevent, or cause the loss of, such registration. Each Loan Party and each Subsidiary has made all contributions required to be made by such Loan Party or Subsidiary to each Canadian Pension Plan.

No Loan Party or Subsidiary maintains, contributes to, or has any liability or contingent liability with respect to, a Canadian Defined Benefit Pension Plan.

4.11 **[Reserved]__.**

4.12 **Solvency__.**

As of the First Amendment Effective Date, each Loan Party is, individually and on a consolidated basis with its Subsidiaries, Solvent.

4.13 **Title to Properties .**

The Borrower and each of the Loan Parties is the owner of, and has good and marketable title to, or material licenses and leases which are valid for the use of, all of its material properties and other material assets, and none of such properties or assets is subject to any Liens other than Permitted Liens.

4.14 **Sanctions Concerns and Anti-Corruption Laws .**

(a) **Sanctions Concerns.** None of the Borrower, nor any of its Subsidiaries, nor, to the knowledge of the Borrower and its Subsidiaries, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that is (i) currently the subject or target of any Sanctions, (ii) included on OFAC’s List of Specially Designated Nationals, the Canadian Sanctions List, HMT’s Consolidated List of Financial Sanctions Targets or the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction.

(b) Anti-Corruption Laws. The Borrower and its Subsidiaries have conducted their business in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, the Corruption of Foreign Public Officials Act (Canada) and other similar anti-corruption legislation in other jurisdictions, and have instituted and maintained policies and procedures reasonably designed to promote and achieve compliance with such laws.

4.15 Affected Financial Institution .

The Borrower is not an Affected Financial Institution.

4.16 Covered Entities .

No Loan Party is a Covered Entity.

4.17 Collateral Representations .

(a) Collateral Documents. The provisions of the Collateral Documents are effective to create in favor of the Agent for the benefit of the Secured Parties a legal, valid and enforceable first priority Lien (subject to Permitted Liens) on all right, title and interest of the respective Loan Parties in the Collateral described therein. Except for filings completed prior to the First Amendment Effective Date and as contemplated hereby and by the Collateral Documents, no filing or other action will be necessary to perfect or protect such Liens.

(b) Deposit Accounts and Securities Accounts. Set forth on Schedule 4.17(b) as of the First Amendment Effective Date (and as of each date such schedule is required to be updated pursuant to Section 5.1(i)) is a list of all deposit accounts and securities accounts of the Loan Parties.

(c) Properties. Set forth on Schedule 4.17(c) as of the First Amendment Effective Date (and as of each date such schedule is required to be updated pursuant to Section 5.1(i)) is a list of all real property located in the United States that is owned or leased by any Loan Party.

4.18 Intellectual Property .

The Loan Parties own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, trade secrets, know-how, franchises, licenses and other intellectual property rights (collectively, "Intellectual Property") that are used in the operation of the business of the Loan Parties and their Subsidiaries, without conflict with the rights of any other Person. To the best knowledge of the Loan Parties, neither the operation of the business, nor any product, service, process, method, substance, part or other material now used, or now contemplated to be used, by any Loan Party or any of its Subsidiaries infringes, misappropriates or otherwise violates upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the best knowledge of any Loan Party, threatened, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. To the best knowledge of the Loan Parties, there has been no unauthorized use, access, interruption, modification, corruption or malfunction of any information technology assets or systems (or any information or transactions stored or contained therein or transmitted thereby) owned or used by the any Loan Party or any of its Subsidiaries, which, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect. Set forth on Schedule 4.18 is a list of (i) all Intellectual Property registered or pending registration with the United States Copyright Office, the United States Patent and Trademark Office or the Canadian Intellectual Property Office that, as of the First Amendment Effective Date (and as of each date such schedule is required to be updated pursuant to Section 5.1(i)), a Loan Party owns and (ii) all licenses of Intellectual Property registered with the United States Copyright Office, the United States Patent and Trademark Office or the Canadian Intellectual Property Office as of the First Amendment Effective Date.

ARTICLE V.

AFFIRMATIVE COVENANTS OF THE BORROWER

Until the Facility Termination Date:

5.1 Financial Statements and Other Reports .

The Borrower shall deliver to the Agent (which shall promptly provide copies to each Lender), for the benefit of the Lenders:

(a) as soon as practicable and in any event within the earlier of (i) 90 days after the end of each Fiscal Year or (ii) two Business Days after the date the Borrower files its Form 10-K with the SEC, the consolidated balance sheet of the Borrower and its consolidated Subsidiaries as of the end of such year and the related statements of earnings, stockholder's equity and cash flow for such Fiscal Year, setting forth in each case in comparative form the figures for the previous Fiscal Year, all in reasonable detail and accompanied by an unqualified report thereon of Deloitte & Touche LLP or other independent certified public accountants of recognized national standing selected by the Borrower and reasonably satisfactory to the Required Lenders, which report shall state that such financial statements fairly present the financial position of the Borrower and its consolidated Subsidiaries as of the date indicated and its results of operations and cash flows for the periods indicated in conformity with GAAP (except as otherwise stated therein) and that the examination by such accountants in connection with such financial statements has been made in accordance with generally accepted auditing standards.

(b) as soon as practicable and in any event within 45 days after the end of each Fiscal Quarter (other than the last Fiscal Quarter of any Fiscal Year) a consolidated balance sheet of the Borrower and its consolidated Subsidiaries as of the end of such quarter and the related statements of earnings, stockholder's equity and cash flow for such quarter and the portion of the Fiscal Year ended at the end of such quarter, setting forth in each case in comparative form the figures for the corresponding periods of the prior Fiscal Year, all in reasonable detail and certified by the Borrower's chief financial officer or controller as fairly presenting the financial condition of the Borrower and its consolidated Subsidiaries as of the dates indicated and its results of operations and cash flows for the periods indicated, subject to normal year-end adjustments.

(c) together with each delivery of financial statements pursuant to Sections 5.1(a) and 5.1(b), a certificate of the chief financial officer or the treasurer of the Borrower, substantially in the form of Exhibit 5.1(c) (a "Compliance Certificate"), duly executed and completed, setting forth the calculations required to establish compliance with Section 6.3, as of the date of such financial statements (which delivery may, unless the Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes).

(d) within five Business Days after the Borrower becomes aware of the occurrence of any Default or Event of Default, a certificate of a Senior Officer of the Borrower setting forth the details thereof and the action that the Borrower is taking or proposes to take with respect thereto.

(e) promptly upon their becoming available, copies of all material reports, notices and proxy statements sent or made available by the Borrower to its security holders, and all material registration statements (other than the exhibits thereto) and annual, quarterly or monthly reports, if any, filed by the Borrower with the SEC.

(f) within five Business Days after the Borrower becomes aware of the occurrence of a material ERISA Event, a statement of a Senior Officer of the Borrower setting forth the details thereof and the action that the Borrower is taking or proposes to take with respect thereto, together with a copy of the notice, if any, of such event given or required to be given to the PBGC; within five days of the date the Borrower or any member of the Controlled Group becomes obliged to make or accrue a contribution to a Multiemployer Plan, a statement of a Senior Officer of the Borrower setting forth the details thereof and the action that the Borrower is taking or proposes to take with respect thereto; and within five days of the date the Borrower or any Loan Party becomes aware of any material failure by any Loan Party or any Subsidiary to perform its obligations under a Canadian Pension Plan, a statement of a Senior Officer of the Borrower setting forth the details thereof and the action that the Borrower or any other Loan Party is taking or proposes to take with respect thereto.

(g) within five Business Days after the Borrower obtains knowledge thereof, notice of all litigation or proceedings commenced or threatened affecting the Borrower or any Subsidiary (i) that could reasonably be expected to have a Material Adverse Effect or (ii) that questions the validity or enforceability of any Loan Document.

(h) at least ten (10) days prior to any such change, notify the Agent of any change in an Loan Party's name, jurisdiction of formation, form of organization or chief executive office or other principal place of business.

(i) during any Collateral Period, concurrently with the delivery of the Compliance Certificate referred to in Section 5.1(c), the following updated Schedules to this Agreement (which may be attached to the Compliance Certificate) to the extent required to make the representation related to such Schedule true and correct as of the date of such Compliance Certificate: Schedules 4.1, 4.17(b), 4.17(c) and 4.18.

(j) from time to time such additional information regarding the Borrower and its Subsidiaries or the business, assets, liabilities, prospects, results of operation or financial condition of any such Person as the Agent, on behalf of any Lender Party, may reasonably request.

Documents required to be delivered pursuant to Section 5.1(a) or (b) or (e) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 9.5; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Agent have access (whether a commercial, third-party website or whether sponsored by the Agent); provided that: (x) the Borrower shall deliver paper copies of such documents to the Agent or any Lender upon its request to the Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by the Agent or such Lender and (y) the Borrower shall notify the Agent and each Lender (by telecopier or electronic mail) of the posting of any such documents and provide to the Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Agent and/or BofA Securities may, but shall not be obligated to, make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, SyndTrak or another similar encrypted electronic system (the "Platform") and (b) certain of the Lenders (each a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Borrower or its Affiliates, or the respective securities of any of the foregoing, and who

may be engaged in investment and other market-related activities with respect to such Persons' securities. The Borrower hereby agrees that so long as the Borrower is the issuer of any outstanding debt or equity securities that are registered or issued pursuant to a private offering or is actively contemplating issuing any such securities (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrower shall be deemed to have authorized the Agent, BofA Securities and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Borrower or its securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 9.13); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Side Information;" and (z) the Agent and BofA Securities shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform that is not marked as "Public Side Information." Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials "PUBLIC."

5.2 Records and Inspection

The Borrower shall, and shall cause each Subsidiary to, maintain adequate books, records and accounts as may be required or necessary to permit the preparation of financial statements required to be delivered hereunder in accordance with sound business practices and GAAP. The Borrower shall, and shall cause each Subsidiary to, permit such Persons as the Agent may designate, at reasonable times during the Borrower's regular office hours as often as may reasonably be requested (which, for the avoidance of doubt, excluding any such visits and inspections during the continuation of an Event of Default, shall not exceed one (1) visit and/or inspection in any Fiscal Year) and under reasonable circumstances, to (a) visit and inspect any of its properties, (b) inspect and copy its books and records, and (c) discuss with its officers, as the Agent may reasonably request, and its independent accountants, its business, assets, liabilities, results of operation or financial condition; provided that the Agent shall not have access to consumer information or any other similar restricted information if such access is prohibited by Applicable Law.

5.3 Corporate Existence, Etc

The Borrower shall, and shall (except as otherwise permitted under Section 6.4) cause each Loan Party to, at all times (a) preserve and keep in full force and effect its corporate existence and all rights and franchises material to the Borrower and to the Borrower and its Subsidiaries taken as a whole and (b) preserve or renew all of its registered Intellectual Property, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

5.4 Payment of Taxes and Claims

The Borrower shall, and shall cause each Loan Party to (a) file all United States federal income Tax returns and all other material Tax returns required to be filed by them, (b) maintain adequate reserves in accordance with GAAP with respect to any Tax deficiencies asserted or proposed to be asserted against them and (c) pay and discharge all claims of any kind (including claims for labor, material and supplies) that, if unpaid, might by Applicable Law become a Lien upon any material portion of the property of the Borrower and its Subsidiaries; provided, however, that, unless and until foreclosure, distraint, levy, sale or similar proceedings shall have commenced, the Loan Parties need not pay or discharge any such claim so long as the validity or amount thereof is being contested in good faith and by appropriate proceedings and so long as any reserves or other appropriate provisions as may be required by GAAP shall have been made therefor.

5.5 Maintenance of Properties

The Borrower shall, and shall cause each Subsidiary to, maintain or cause to be maintained in good repair, working order and condition (ordinary wear and tear excepted), all properties and other assets useful and necessary to its business, and from time to time the Loan Parties shall make or cause to be made all appropriate repairs, renewals and replacements thereto except, in each case, to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect. The Borrower shall, and shall cause each of its Subsidiaries to, use reasonable efforts to prevent offsets of and defenses to its receivables and other rights to payment. The Borrower shall, and shall cause each Loan Party to, maintain or cause to be maintained good and marketable title to, or material licenses and leases which are valid for the use of, all of its material properties and other material assets.

5.6 Maintenance of Insurance

(a) The Borrower shall, and shall cause each Subsidiary to, maintain with financially sound and reputable insurance companies insurance (or adequate self-insurance) in at least such amounts, of such character and against at least such risks as is usually maintained by companies of established repute engaged in the same or a similar business in the same general area.

(b) As soon as practical, and any event, no later than thirty (30) days after the First Amendment Effective Date, the Borrower shall, and shall cause each Loan Party to, cause the Agent to be named as lenders' loss payable, loss payee or mortgagee, as its interest may appear, and/or additional insured with respect of any such insurance providing liability coverage or coverage in respect of any Collateral, and cause, unless otherwise agreed to by the Agent, each provider of any such insurance to agree, by endorsement upon the policy or policies issued by

it or by independent instruments furnished to the Agent that it will give the Agent thirty (30) days prior written notice before any such policy or policies shall be altered or cancelled (or ten (10) days prior notice in the case of cancellation due to the nonpayment of premiums). Annually, upon expiration of current insurance coverage, the Loan Parties shall provide, or cause to be provided, to the Agent, such evidence of insurance as required by the Agent, including, but not limited to: (i) evidence of such insurance policies (including, without limitation and as applicable, ACORD Form 28 certificates (or similar form of insurance certificate), and ACORD Form 25 certificates (or similar form of insurance certificate)), (ii) declaration pages for each insurance policy and (iii) lender's loss payable endorsement if the Agent for the benefit of the Secured Parties is not on the declarations page for such policy.

5.7 Conduct of Business; Compliance with Law .

The Borrower shall not change the general character of its business as conducted at the Closing Date or engage, directly or through a Subsidiary, in any type of business not reasonably related to its business as normally conducted except for those businesses which are immaterial to the Borrower's business as normally conducted. Each Loan Party shall maintain its right to carry on business in any jurisdiction where it is doing business at such time and remain in and continuously operate the same lines of business presently engaged in except for (i) periodic shutdown in the ordinary course of business, (ii) interruptions caused by strike, labor dispute, catastrophe, acts of war or terrorism or any other events over which it has no control, and (iii) discontinuance of operations when reasonably determined by the Borrower to be in the best interest of the Loan Parties, provided that such discontinuance will not have a Material Adverse Effect. The Borrower shall, and shall cause each of the Loan Parties to, conduct its business in compliance in all material respects with all Applicable Law and all its Material Contractual Obligations.

5.8 Further Assurances

At any time and from time to time, upon the request of the Agent, the Borrower shall, and shall cause each Loan Party to, execute and deliver such further documents and do such other acts and things as the Agent may reasonably request in order to effect fully the purposes of the Loan Documents and any other agreement contemplated thereby and to provide for payment and performance of the Obligations in accordance with the terms of the Loan Documents.

5.9 Additional Guarantors

(a) Within thirty days (or such later date as the Agent may agree in its sole discretion) after (i) any Person becomes a Material Subsidiary, cause such Person to, or (ii) the Loan Parties fail to own all of the Intellectual Property of the Borrower and its Subsidiaries or at least ninety-five percent (95%) of the total inventory of the Borrower and its Subsidiaries or at least ninety-five percent (95%) of the total accounts receivable of the Borrower and its Subsidiaries, cause such Persons as are necessary to be in compliance with the foregoing to, in each case, (x) become a Guarantor by executing and delivering to the Agent a Joinder Agreement or such other documents as the Agent shall deem appropriate for such purpose, and (y) deliver to the Agent such Organization Documents, resolutions and opinions of counsel, all in form, content and scope reasonably satisfactory to the Agent; provided, however, except as required to comply with clause (ii) above, no Foreign Subsidiary shall be required to become a Guarantor to the extent such Guaranty would result in a material adverse tax consequence for the Borrower.

(b) If any Subsidiary provides a guaranty of the 2020 Senior Notes, it shall become a Guarantor in accordance with Section 5.9(a).

(c) Notwithstanding anything to the contrary contained herein, neither PropCo nor any of its Subsidiaries shall be required to become Guarantors.

5.10 Anti-Corruption Laws; Sanctions

The Borrower shall, and shall cause of each of its Subsidiaries to, conduct its business in all material respects in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, the Corruption of Foreign Public Officials Act (Canada) and other similar anti-corruption legislation in other jurisdictions and with all applicable Sanctions, and maintain policies and procedures reasonably designed to promote and achieve compliance with such laws and Sanctions.

5.11 Pledged Assets

(a) During any Collateral Period, except with respect to Excluded Property, the Borrower shall, and shall cause each Loan Party to, promptly (and in any event, within thirty (30) days of a Collateral Trigger Event):

(i) cause all property of each Loan Party that constitutes Collateral to be subject at all times to first priority, perfected Liens in favor of the Agent to secure the Obligations pursuant to the Collateral Documents (subject to Permitted Liens) and, in connection with the foregoing, deliver to the Agent such other documentation as the Agent reasonably may request including filings and deliveries necessary to perfect such Liens, Organization Documents, resolutions, and favorable opinions of counsel to such Person, all in form, content and scope reasonably satisfactory to the Agent.

(ii) at any time upon request of the Agent, promptly execute and deliver any and all further instruments and documents and take all such other action as the Agent reasonably may deem necessary or desirable to maintain in favor of the Agent, for the benefit of the Secured Parties, Liens and insurance rights on the Collateral that are duly perfected in accordance with the requirements of, or the obligations of the Loan Parties under, the Loan Documents and all applicable Laws.

(b) Upon the occurrence of a Collateral Release Event, the Agent shall promptly release the Liens and security interests in the Collateral, all at the expense of the Loan Parties.

5.12 Deposit Accounts

The Borrower shall, and shall cause its Subsidiaries to, maintain all primary cash management and treasury business with Bank of America or another Lender or any of their respective Affiliates, including, without limitation, all deposit accounts, disbursement accounts, investment accounts and lockbox accounts.

ARTICLE VI.

NEGATIVE COVENANTS OF THE BORROWER

Until the Facility Termination Date:

6.1 Liens

The Borrower shall not, and shall not permit any Subsidiary to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any asset of the Borrower or any Subsidiary, whether now owned or hereafter acquired, except:

(a) Liens securing the Obligations and Existing Liens;

(b) (i) Liens for Taxes, assessments or charges of any Governmental Authority for claims that are not material or are not yet due or are being contested in good faith by appropriate proceedings and with respect to which adequate reserves or other appropriate provisions are being maintained in accordance with GAAP (and as to which foreclosure, distraint, levy, sale or similar proceedings have not yet commenced with respect to the property subject to any such Lien on account thereof); (ii) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics, materialmen, bankers and other Liens imposed by law and created in the ordinary course of business for amounts that are not material and are not yet due or are being contested in good faith by appropriate proceedings and with respect to which adequate reserves or other appropriate provisions are being maintained in accordance with GAAP (and as to which foreclosure, distraint, levy, sale or similar proceedings have not yet commenced with respect to the property subject to any such Lien on account thereof); (iii) Liens incurred and deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security benefits or to secure the performance (including by way of surety bonds or appeal bonds) of tenders, bids, leases, contracts, statutory obligations or similar obligations or arising as a result of progress payments under contracts, in each case in the ordinary course of business and not relating to the repayment of Debt; (iv) easements, rights-of-way, covenants, consents, reservations, encroachments, variations and other restrictions, conditions (including those conditions commonly referred to as "CC&Rs"), charges or encumbrances (whether or not recorded) that do not materially interfere with the ordinary conduct of the Loan Parties' business; (v) building restrictions, zoning laws and other statutes, laws, rules, regulations, ordinances and restrictions; (vi) leases, subleases, easements or similar use rights granted in the ordinary course of business to others not materially interfering with the business of, and consistent with past practices of, the Loan Parties; (vii) construction, operation and reciprocal easement agreements entered into in the ordinary course of business that do not materially interfere with the ordinary conduct of the Loan Parties' business and not relating to the repayment of Debt; (viii) customary rights of set off, revocation, refund or charge-back under deposit agreements or under the Uniform Commercial Code in favor of banks or other financial institutions where the Borrower or any Subsidiary maintains deposits in the ordinary course of business; (ix) Liens on accounts receivable of the Loan Parties for which collection attempts are being undertaken by a third party at the request of the Loan Parties; (x) Liens arising from precautionary Uniform Commercial Code financing statements regarding operating leases; (xi) Liens arising by operation of law on insurance policies and proceeds thereof to secure premiums thereunder; and (xii) Liens in favor of any entity in the state of Iowa, whether or not in replacement of Existing Liens, so long as such Liens do not at any time encumber any property other than property subject to the Existing Lien(s) in effect on the Closing Date in favor of Kirkwood Community College;

(c) any attachment or judgment Lien, not otherwise constituting an Event of Default, in existence less than 30 days after the entry thereof or with respect to which (i) execution has been stayed, (ii) payment is covered in full by insurance and the insurer has not denied coverage, or (iii) the Borrower is in good faith prosecuting an appeal or other appropriate proceedings for review and has set aside on its books such reserves as may be required by GAAP with respect to such judgment or award;

(d) precautionary Uniform Commercial Code financing statements regarding consignments, provided that any such financing statements do not describe any property other than the assets acquired through the consignment and proceeds thereof;

(e) Liens securing Debt permitted by Section 6.9(b); provided that any such Lien does not encumber any property other than the assets acquired or improved with the proceeds of such Debt or the assets subject to such Capitalized Lease, related reserve funds, related personal property (which for this purpose shall not include inventory and Intellectual Property) and proceeds of any of the foregoing;

(f) Liens existing on assets of any Person at the time such assets are acquired; provided such Lien does not encumber any assets other than the assets subject to such Lien at the time such assets are acquired and proceeds thereof and such Lien was not created in contemplation of such acquisition;

(g) Liens arising from the sale or securitization of receivables, to the extent the Debt arising from such securitization is not otherwise prohibited under this Agreement at the time such Debt was incurred;

(h) any Lien constituting a renewal, extension or replacement of any Existing Lien or any Lien permitted by clauses (e) or (f) of this Section 6.1, provided such Lien is limited to all or a part of the property subject to the Lien extended, renewed or replaced;

(i) Liens granted by (i) a Subsidiary of the Borrower in favor of the Borrower or another Subsidiary of the Borrower (provided that any such Lien granted by a Loan Party may only be granted to a Loan Party), or (ii) the Borrower to any Subsidiary financial institution to secure any transaction deemed to be a credit transaction or other covered transaction with an affiliate under Sections 23A and 23B of the Federal Reserve Act and implementing regulations;

(j) covenants contained in the following agreements (as the same may be amended or supplemented from time to time so long as the covenants contained therein relating to the grant of security therefore are not modified in a manner adverse to the Lenders) which require the grant of security for the obligations evidenced thereby if security is given for some other obligation: (i) the 1998 Indenture; and (ii) the 2007 Indenture; provided, however, that this clause (j) shall not be deemed to restrict additional Debt from being issued under any of the foregoing agreements or any supplement thereto so long as the covenants contained therein relating to the grant of security therefore are not modified in a manner adverse to the Lenders;

(k) leases, licenses, subleases or sublicenses granted to others (including, without limitation, licenses of Intellectual Property) not interfering in any material respect with the business of the Borrower and its Subsidiaries;

(l) Liens on Specified Assets securing Debt (including the 2020 Senior Notes) to the extent such Liens are permitted by the 1998 Indenture and the 2007 Indenture without requiring the Borrower to secure the 1998 Indenture or the 2007 Indenture; and

(m) other Liens (including, for the avoidance of doubt, Sale and Leaseback Transactions and/or other similar Liens), on assets other than inventory, accounts receivable or Intellectual Property, securing obligations not exceeding \$50,000,000 in the aggregate.

Notwithstanding anything to contrary contained herein, the Loan Parties shall not grant a Lien on (i) the Capital Stock of their Subsidiaries (other than the Capital Stock of PropCo or any of its Subsidiaries) or (ii) the inventory, accounts receivable or Intellectual Property of the Loan Parties, except, in the case of this clause (ii), to secure the Obligations.

6.2 Restricted Payments

The Borrower shall not, and shall not permit any Subsidiary to, declare, pay or make, or agree to declare, pay or make, any Restricted Payment, except (a) Restricted Payments by any Subsidiary to the Borrower and any other Person that owns capital stock or other equity interests in such Subsidiary, ratably according to their respective holdings of the type of capital stock or other equity interests in respect of which such Restricted Payment is being made, (b) Restricted Payments (other than purchases or other acquisition for value of any Capital Stock of the Borrower or any Subsidiary) so long as no Default or Event of Default then exists or would result therefrom (assuming for this purpose that compliance with Section 6.3 is being measured as of the end of the immediately preceding Fiscal Quarter giving pro forma effect to the Restricted Payment) and/or (c) purchases or other acquisitions for value of any Capital Stock of the Borrower or any Subsidiary. Notwithstanding anything to the contrary contained herein, during any Collateral Period, the Borrower shall not, and shall not permit any Subsidiary to, declare, pay or make, or agree to declare, pay or make, any dividends or repurchases of capital stock or other equity interests; provided, that this provision shall not prohibit any Subsidiary from making Restricted Payments to Persons that own Capital Stock in such Subsidiary, ratably according to their respective holdings of the type of Capital Stock in respect of which such Restricted Payment is being made.

6.3 Financial Covenants

(a) During any period that is not a Collateral Period, as of the last day of each Fiscal Quarter, for the twelve month period ending on such date, the Borrower shall not permit the ratio of (i) the sum of (A) Funded Debt as of the last day of such period and (B) the product of (1) Rent Expense for such period times (2) six to (ii) EBITDAR for such period (the "Leverage Ratio") to be greater than 4.0 to 1.0.

(b) During any Collateral Period, the Borrower shall not permit Liquidity to be less than \$400,000,000 as of the last Business Day of any fiscal month of the Borrower.

(c) During any Collateral Period, the Borrower shall not permit, as of the last Business Day of any fiscal month of the Borrower, the sum of (i) all Tranche A Revolving Loans outstanding plus (ii) all Bid Loans outstanding plus (iii) all L/C Obligations outstanding plus (iv) all Swing Line Loans outstanding plus (v) all Tranche B Loans outstanding to exceed an amount equal to the sum of (x) 75% of the net book value of all inventory of the Borrower and its wholly-owned Subsidiaries plus (y) 90% of the net accounts receivable of the Borrower and its wholly-owned Subsidiaries, in each case with respect to clauses (x) and (y) that such inventory and receivables are owned in fee simple and not subject to any Liens other than Permitted Liens.

(d) During any Collateral Period, as of the last day of each Fiscal Quarter (commencing with the Fiscal Quarter ending January 30, 2021), for the twelve month period ending on such date, the Borrower shall not permit the ratio of (i) EBITDAR for such period to (ii) the sum of (x) net Rent Expense for such period plus (y) net Interest Expense for such period (the "Fixed Charge Coverage Ratio") to be less than (i) 1.0 to 1.0, for the fiscal quarter ending January 30, 2021, (ii) 1.1 to 1.0, for the fiscal quarter ending May 1, 2021 and (iii) 1.25 to 1.0 for any fiscal quarter ending thereafter. Notwithstanding anything to the contrary contained herein, for purposes of calculating the Fixed Charge Coverage Ratio for the Fiscal Quarters ending January 30, 2021, May 1, 2021 and July 31, 2021, EBITDAR, net Rent Expense and net Interest Expense shall be deemed to be such amounts for (A) the Fiscal Quarter ending January 30, 2021 multiplied by 4, (B) the two Fiscal Quarters ending May 1, 2021 multiplied by 2 and (C) for the three Fiscal Quarters ending July 31, 2021 multiplied by 4/3.

(e) As of the last day of the Fiscal Quarter ending October 31, 2020, the Borrower shall not permit EBITDAR to be less than negative \$100,000,000.

6.4 Restriction on Fundamental Changes

The Borrower shall not, and shall not permit any Subsidiary to enter into any merger, amalgamation, consolidation, reorganization or recapitalization, liquidate, wind up or dissolve or sell, lease, transfer or otherwise dispose of, in one transaction or a series of transactions, all or substantially all of its or their business or assets, whether now owned or hereafter acquired;

provided that as long as no Default or Event of Default shall exist either before or after giving effect thereto (a) any Solvent Subsidiary or other Solvent Person (other than the Borrower) may be merged, amalgamated or consolidated with or into the Borrower (so long as the Borrower is the surviving entity) or any Subsidiary (provided that if a Loan Party is a party to such transaction, such Loan Party is the surviving or resulting entity), (b) any Subsidiary may be liquidated, wound up or dissolved so long as it does not cause or could not be reasonably expected to cause a Material Adverse Effect and (c) in addition to transactions permitted under Section 6.5 (which permitted transactions shall not be restricted by this Section 6.4), all or substantially all of any Subsidiary's business or assets may be sold, leased, transferred or otherwise disposed of, in one transaction or a series of transactions, to the Borrower or another Subsidiary (provided that if the transferor of such property is a Loan Party then the transferee thereof must be a Loan Party unless, subject to Section 6.11, such property consists of Mortgaged Property).

6.5 Asset Dispositions .

The Borrower shall not, and shall not (except as permitted by Section 6.4(c)) permit any Subsidiary to, sell, lease, transfer or otherwise dispose of during any Fiscal Year property or other assets (other than (a) sales of inventory in the ordinary course of business, (b) sales of credit card accounts, associated receivables and related assets in connection with a credit card program agreement, (c) transfers of real property to Subsidiaries in connection with Debt incurred pursuant to Section 6.9(g) and (d) sales of aircraft for fair market value) constituting, in the aggregate, 3.5% or more of the Consolidated Tangible Assets of the Borrower and its Subsidiaries, computed as of the end of the most recent fiscal quarter end of the Borrower for which financial statements were required to be delivered pursuant to Section 5.1(a) or 5.1(b).

6.6 Transactions with Affiliates .

The Borrower shall not, and shall not permit any Subsidiary to, directly or indirectly, enter into any transaction (including the purchase, sale, lease, or exchange of any property or the rendering of any service) with any Affiliate of the Borrower, unless (a) such transaction is not otherwise prohibited by this Agreement, (b) such transaction is in the ordinary course of business and (c) if such transaction is other than with a Wholly-Owned Subsidiary, such transaction is on fair and reasonable terms no less favorable to the Borrower or its Subsidiary, as the case may be, than those terms which might be obtained at the time in a comparable arm's length transaction with a Person who is not an Affiliate or, if such transaction is not one which by its nature could be obtained from such other Person, is on fair and reasonable terms and was negotiated in good faith; provided that this Section 6.6 shall not restrict (i) dividends, distributions and other payments and transfers on account of any shares of Capital Stock of the Borrower or any Subsidiary otherwise permissible hereunder, (ii) transactions pursuant to (A) any agreement between the Borrower and any Affiliate of the Borrower pursuant to which the Borrower sells, discounts or otherwise transfers an interest in accounts receivable in the ordinary course of its business (including agreements under which the Borrower has an obligation to repurchase from or indemnify the purchaser with respect to accounts discounted, sold or otherwise transferred by the Borrower), (B) any agreement between the Borrower and any Affiliate of the Borrower or between one or more Affiliates of the Borrower for or related to the sale of credit card accounts, associated receivables and related assets, (C) sales of loans or participations in loans by any Subsidiary financial institution to an Affiliate, and (D) loans, advances and other transactions between or among the Borrower or any of its Subsidiaries to the extent permitted under Section 6.1, 6.2, 6.4, 6.5, 6.9 or 6.10, and (iii) subject to Section 6.11, transactions pursuant to the definitive documentation for the 2020 Senior Notes.

6.7 Sanctions .

The Borrower shall not, and shall not permit any Subsidiary to, directly or indirectly, use any Loan, issue any Letter of Credit or use the proceeds of any Loan or Letter of Credit, or lend, contribute or otherwise make available such proceeds to any Person, to fund any activities of or business with any Person, or in any Designated Jurisdiction, 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 Lender, arranger, Agent, L/C Issuer, Swing Line Lender or otherwise) of Sanctions.

6.8 Anti-Corruption Laws .

The Borrower shall not, and shall not permit any Subsidiary to, use any Loan, issue any Letter of Credit or use the proceeds of any Loan or Letter of Credit directly or, to the knowledge of the Borrower, indirectly, for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010, the Corruption of Foreign Public Officials Act (Canada) and other similar anti-corruption legislation in other jurisdictions applicable to the Borrower and its Subsidiaries.

6.9 Debt .

The Borrower shall not, and shall not permit any Subsidiary to, create, incur, assume or suffer to exist any Debt, except:

(a) Debt under the Loan Documents;

(b) Debt of the Borrower or any Subsidiary used to finance the acquisition of fixed assets (including, without limitation, equipment and vehicles) of the Borrower or such Subsidiary, the construction of additional buildings or the expansion otherwise of their respective facilities and Debt consisting of Capitalized Leases; provided that such Debt (i) does not exceed the cost to the Borrower or such Subsidiary

of the assets acquired or improved with the proceeds of such Debt or the value of the assets subject to such Capitalized Leases, (ii) in the case of new construction or expansion of existing facilities, is either a construction or permanent loan secured by the facilities constructed and/or the real property on which such facilities are located and related equipment and fixtures, leases, rents, reserves and other personal property (which for this purpose shall not include inventory and Intellectual Property) to the extent located on or commonly considered to be part of the real property as applicable, and (iii) in the case of other asset financing, is incurred within twelve months following the date of the acquisition (which for this purpose shall, in the case of a construction project, be the date that construction is completed and the asset constructed is placed into service or in the case of a Sale and Leaseback Transaction the date of disposition);

(c) obligations (contingent or otherwise) existing or arising under any Swap Contract, provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with fluctuations in interest rates or foreign exchange rates and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;

(d) unsecured intercompany Debt permitted by Section 6.10(c); provided that in the case of Debt owing by a Loan Party to a Subsidiary that is not a Loan Party such Indebtedness shall be subordinated to the Obligations in a manner and to an extent reasonably acceptable to the Agent;

(e) Debt under the 1998 Indenture to the extent outstanding on the First Amendment Effective Date;

(f) Debt under the 2007 Indenture to the extent outstanding on the First Amendment Effective Date;

(g) Debt secured by Liens permitted by Section 6.1(l), together with any Permitted Refinancing Debt thereof;

(h) unsecured Debt of the Subsidiaries that are not Loan Parties in an aggregate principal amount not to exceed \$20,000,000 at any time outstanding;

(i) secured Debt of the Borrower and its Subsidiaries in an aggregate principal amount not to exceed \$50,000,000 at any time outstanding; provided, that such Debt shall not be secured by a Lien on the inventory, accounts receivable or Intellectual Property;

(j) unsecured Debt of the Loan Parties in an aggregate principal amount not to exceed at any time outstanding the sum of (i) \$800,000,000 plus (ii) the amount of any existing unsecured Debt of the Loan Parties, together with any Permitted Refinancing Debt thereof, in any case, so long as the maturity for any such Debt that is incurred during the existence of a Collateral Period is at least 91 days after the latest Maturity Date then in effect; and

(k) Contingent Obligations in respect of Debt otherwise permitted under this Section 6.9.

6.10 Investments.

During any Collateral Period, the Borrower shall not, and shall not permit any Subsidiary to, create, incur, assume or suffer to exist any Investments, except

(a) Investments held by the Borrower and its Subsidiaries in the form of short-term marketable securities;

(b) advances to officers, directors and employees of the Borrower and Subsidiaries in an aggregate amount not to exceed \$2,500,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;

(c) (i) Investments by the Borrower and its Subsidiaries in their respective Subsidiaries outstanding on the First Amendment Effective Date, (ii) additional Investments by the Borrower and its Subsidiaries in Loan Parties, (iii) additional Investments by Subsidiaries of the Borrower that are not Loan Parties in other Subsidiaries that are not Loan Parties, (iv) to the extent constituting an Investment, transfers of real property to Subsidiaries in connection with Debt incurred pursuant to Section 6.9(g) and (v) so long as no Default has occurred and is continuing or would result from such Investment, additional Investments by the Loan Parties in Subsidiaries that are not Loan Parties, joint ventures or other minority equity Investments (a "Non-Loan Party Investment") in an aggregate amount invested during a specific Collateral Period not to exceed \$25,000,000 (it being understood that Investments passed through an intermediate Subsidiary for purposes of allowing the Borrower or such Subsidiary to consummate a Non-Loan Party Investment shall be permitted so long as such Non-Loan Party Investment is consummated substantially concurrently with the making of such Investment);

(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 from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(e) Contingent Obligations permitted by Section 6.9;

(f) Investments existing on the date on which a Collateral Trigger Event occurs (other than those referred to in Section 6.10(c)(i)) and set forth on Schedule 6.10 (for the avoidance of doubt, the Borrower shall be permitted to deliver to the Agent an updated Schedule 6.10 after the occurrence of a Collateral Trigger Event, provided that such Schedule shall only include Investments made prior to the occurrence of such Collateral Trigger Event); and

(g) Investments by the Borrower and its Subsidiaries not otherwise permitted under this Section 6.10 in an aggregate amount not to exceed \$5,000,000.

6.11 Specified Assets.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Borrower shall not, and shall not permit any Loan Party to, (a) sell, lease, loan, dispose or otherwise transfer any inventory or other personal property (other than Fixtures and, to the extent related to any real property being transferred, licenses, leases, permits and other real property related contracts) to (i) PropCo or any of its Subsidiaries or (ii) any other Subsidiary that is not a Loan Party if, in the case of this clause (ii), as a result of such sale, lease, loan, disposition or other transfer the Loan Parties would not be in compliance with Section 5.9 or (b) affix any of its personal property to any Mortgaged Property in a manner which would change its nature from personal property to real property or a fixture (as defined in Article 9 of the UCC).

6.12 Canadian Defined Benefit Pension Plans

The Borrower shall not, and shall not permit any Subsidiary to, directly or indirectly, maintain, contribute to, or incur any liability or contingent liability in respect of a Canadian Defined Benefit Pension Plan.

ARTICLE VII.

EVENTS OF DEFAULT, ETC.

7.1 Events of Default

The occurrence of any one or more of the following events, acts or occurrences shall constitute an event of default (each an “Event of Default”):

(a) Failure to Make Payments. Any Loan Party (i) shall fail to pay as and when due (whether at stated maturity, upon acceleration, upon required prepayment or otherwise), and in the currency required hereunder, any principal of any Loan or any L/C Obligation, or (ii) shall fail to pay any interest, Fees or other amounts (other than principal) payable under the Loan Documents within five days of the date when due under the Loan Documents;

(b) Default in Other Debt. (i) The Borrower or any Subsidiary shall default in the payment (whether at stated maturity, upon acceleration, upon required prepayment or otherwise), beyond any period of grace provided therefor, of any principal of or interest on any other Debt with a principal amount (individually or in the aggregate) in excess of \$100,000,000, or (ii) any other breach or default (or other event or condition), beyond any period of grace provided therefor, shall occur under any agreement, indenture or instrument relating to any such other Debt with a principal amount (individually or in the aggregate) in excess of \$100,000,000, if the effect of such breach or default (or such other event or condition) is to cause, or to permit, the holder or holders of such other Debt (or a Person on behalf of such holder or holders) to cause (upon the giving of notice or otherwise), such other Debt to become or be declared due and payable, or required to be prepaid, redeemed, purchased or defeased (or an offer of prepayment, redemption, purchase or defeasance be made), prior to its stated maturity (other than by a scheduled mandatory prepayment); provided, however, that if any such breach or default described in this Section 7.1(b) is cured or waived prior to any action being taken pursuant to Section 7.2(a) or 7.2(b), the Event of Default under this Agreement in respect of such breach or default shall be deemed cured to the extent of such cure or waiver;

(c) Breach of Certain Covenants.

(i) Any Loan Party shall fail to perform, comply with or observe any agreement, covenant or obligation under Section 2.3, under Sections 6.2 through 6.5 inclusive, or under Section 5.1(d) or 5.3 (insofar as it requires the preservation of the corporate existence of the Borrower);

(ii) Any Loan Party shall fail to perform, comply with or observe any agreement, covenant or obligation under Section 6.1, Section 6.6, Section 6.9, Section 6.10, or Section 6.11 and such failure shall not have been remedied within ten days; or

(iii) Any Loan Party shall fail to perform, comply with or observe any agreement, covenant or obligation under Sections 5.1(a), (b) or (c) and such failure shall not have been remedied within five days;

(d) Other Defaults Under Loan Documents. Any Loan Party shall fail to perform, comply with or observe any agreement, covenant or obligation under any provision of any Loan Document (other than those provisions referred to in Sections 7.1(a), 7.1(b) and 7.1(c)) and such failure shall not have been remedied within 30 days after the earlier to occur of (i) the Borrower’s knowledge thereof or (ii) written notice thereof by the Agent to the Borrower; or

(e) Breach of Representation or Warranty. Any representation or warranty or certification made or furnished by any Loan Party under any Loan Document shall prove to have been false or incorrect in any material respect when made (or deemed made);

(f) Involuntary Bankruptcy; Appointment of Receiver, Etc. There shall be commenced against the Borrower or any Loan Party, an involuntary case seeking the liquidation or reorganization of the Borrower or any Loan Party under Chapter 7 or Chapter 11, respectively, of the Bankruptcy Code, or any proceeding under any Debtor Relief Law or any other Applicable Law or an involuntary case or proceeding

seeking the appointment of a receiver, receiver-manager, liquidator, sequestrator, custodian, trustee or other officer having similar powers over the Borrower or any Loan Party or to take possession of all or a substantial portion of its property or to operate all or a substantial portion of its business, and any of the following events occurs: (i) the Borrower or any Loan Party consents to the institution of the involuntary case or proceeding; (ii) the petition commencing the involuntary case or proceeding is not timely controverted; (iii) the petition commencing the involuntary case or proceeding remains undismissed and unstayed for a period of 60 days; or (iv) an order for relief is issued or entered therein;

(g) Voluntary Bankruptcy; Appointment of Receiver, Etc. The Borrower or any Loan Party shall institute a voluntary case seeking liquidation or reorganization under Chapter 7 or Chapter 11, respectively, of the Bankruptcy Code or any similar proceeding under any Debtor Relief Law or any other Applicable Law, or shall consent thereto; or shall consent to the conversion of an involuntary case to a voluntary case; or shall make a proposal to its creditors or file notice of its intention to do so, shall institute any other proceeding under Applicable Law seeking to adjudicate it a bankrupt or an insolvent, or seeking liquidation, dissolution, winding-up, reorganization, compromise, arrangement, adjustment, protection, moratorium, relief, stay of proceedings of creditors, composition of it or its debts or any other similar relief; or shall file a petition, answer a complaint or otherwise institute any proceeding seeking, or shall consent to or acquiesce in the appointment of, a receiver, receiver-manager, liquidator, sequestrator, custodian, trustee or other officer with similar powers over the Borrower or any Loan Party or to take possession of all or a substantial portion of its property or to operate all or a substantial portion of its business; or shall make a general assignment for the benefit of creditors; or shall generally not pay, or shall admit in writing its inability to pay, its debts as they become due; or the board of directors of the Borrower or any Loan Party (or any committee thereof) shall adopt any resolution or otherwise authorize action to approve any of the foregoing;

(h) Judgments and Attachments. The Borrower or any Subsidiary shall suffer any money judgments, writs or warrants of attachment or similar processes (collectively, "Judgments") that, individually or in the aggregate, involve an amount or value in excess of \$100,000,000 and such Judgments shall continue unsatisfied or unstayed for a period of 60 days; provided that no Event of Default shall exist if (i) payment of the Judgments are covered in full by insurance and the insurer has affirmed such coverage or (ii) the Borrower is in good faith prosecuting an appeal of such Judgments and has (A) deposited funds as required for such appeal, if any and (B) reserved amounts on its books for such Judgments as required in accordance with GAAP;

(i) ERISA, etc. (i) The Borrower or any member of the Controlled Group shall fail to pay when due any material amount or amounts that it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or a proceeding shall be instituted by a fiduciary of any such Plan or Plans against the Borrower or any member of the Controlled Group to enforce Section 515 of ERISA; or any ERISA Event shall occur which could reasonably be expected to have a Material Adverse Effect; or the Borrower or any member of the Controlled Group shall partially or completely withdraw from any Multiemployer Plan; or any Multiemployer Plan to which Borrower or any member of its Controlled Group becomes obligated to make or accrue a contribution is placed in reorganization or terminates or (ii) any Loan Party or any Subsidiary shall fail to perform its obligations under a Canadian Pension Plan which has resulted or could reasonably be expected to result in liability of any Loan Party in a material amount or amounts or which could reasonably be expected to have a Material Adverse Effect;

(j) Termination of Loan Documents, Etc. Any Loan Document, or any material provision thereof, shall cease to be in full force and effect with respect to any Loan Party for any reason, or any Loan Party shall contest or purport to repudiate or disavow any of its obligations under, or the validity of enforceability of, any Loan Document or any material provision thereof; or

(k) Collateral Documents. During any Collateral Period, any Collateral Document after delivery thereof pursuant to the terms of the Loan Documents shall for any reason cease to create a valid and perfected first priority Lien (subject to Permitted Liens) on the Collateral purported to be covered thereby, or any Loan Party shall assert the invalidity of such Liens.

7.2 Remedies

Upon the occurrence of an Event of Default:

(a) If an Event of Default occurs under Section 7.1(f) or 7.1(g), then (i) the Revolving Commitments shall automatically and immediately terminate, and the obligation of the Lenders to make any Loan and any obligation of an L/C Issuer to make L/C Credit Extensions hereunder shall cease, (ii) the unpaid principal amount of the Loans and all other Obligations shall automatically become immediately due and payable, without presentment, demand, protest, notice or other requirements of any kind, all of which are hereby expressly waived by the Borrower and (iii) the Borrower shall Cash Collateralize the L/C Obligations (in an amount equal to the then outstanding L/C Obligations).

(b) If an Event of Default occurs, other than under Section 7.1(f) or 7.1(g), the Agent may (i) with the consent of the Required Lenders, by written notice to the Borrower, declare that the Revolving Commitments and all pending Bid Loan Quotes (whether or not accepted) are terminated, whereupon the obligation of the Lender Parties to make any Loan or to make L/C Credit Extensions hereunder shall cease, (ii) with the consent of the Required Lenders, declare the unpaid principal amount of the Loans and all other Obligations to be, and the same shall thereupon become, due and payable, without presentment, demand, protest, any additional notice or other requirements of any kind, all of which are hereby expressly waived by the Borrower and/or (iii) with the consent of the Required Lenders or at the direction of an L/C Issuer, require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the then outstanding L/C Obligations).

(c) The Agent may, with the consent of the Required Lenders, enforce any and all rights and interests created and existing under the Loan Documents, including, without limitation, all rights of set-off.

Notwithstanding the fact that enforcement powers reside primarily with the Agent, each Lender has, to the extent permitted by law, a separate right of payment and shall be considered a separate “creditor” holding a separate “claim” within the meaning, and for the purposes, of Section 101(5) of the Bankruptcy Code or any other insolvency statute.

7.3 Allocation of Payments After Event of Default

Notwithstanding any other provisions of this Agreement, after the occurrence and during the continuance of an Event of Default, all amounts collected or received by the Agent or any Lender on account of amounts outstanding under any of the Loan Documents shall be paid over or delivered as follows:

FIRST, to the payment of all reasonable out-of-pocket costs and expenses (including without limitation reasonable attorneys’ fees) of the Agent or any of the Lenders in connection with enforcing the rights of the Lenders under the Loan Documents and any protective advances made by the Agent or any of the Lenders, pro rata as set forth below;

SECOND, to the payment of any fees owed to the Agent or any Lender (other than Letter of Credit Fees), pro rata as set forth below;

THIRD, to the payment of all Letter of Credit Fees and accrued interest payable to the Lenders hereunder, pro rata as set forth below;

FOURTH, to (a) the payment of the outstanding principal amount of the Loans and L/C Borrowings and all other obligations which shall have become due and payable under the Loan Documents and (b) Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit, pro rata as set forth below;

FIFTH, to the payment of all other Obligations which shall have become due and payable, pro rata as set forth below; and

SIXTH, the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

In carrying out the foregoing, (a) amounts received shall be applied in the numerical order provided until exhausted prior to application to the next succeeding category and (b) each of the Lenders shall receive an amount equal to its pro rata share (based on the proportion that the then outstanding Loans held by such Lender bears to the aggregate then outstanding Loans) of amounts available to be applied.

Subject to Section 2.19(c), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause FOURTH 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. Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section 7.3.

Notwithstanding the foregoing, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements shall be excluded from the application described above if the Agent has not received a Secured Party Designation Notice, together with such supporting documentation as the Agent may request, from the applicable Cash Management Bank or Hedge Bank (in each case, other than the Agent or an Affiliate of the Agent), as the case may be. Each Cash Management Bank or Hedge Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Agent pursuant to the terms of Article VIII for itself and its Affiliates as if a “Lender” party hereto.

ARTICLE VIII.

THE AGENT

8.1 Appointment and Authority

(a) Each Lender hereby irrevocably appoints, designates and authorizes Bank of America to act on its behalf as the Agent hereunder and under the other Loan Documents and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Agent and the Lenders, and (except as provided in Section 8.6) the Borrower shall not have rights as a third-party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) The Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (including in its capacities as a potential Hedge Bank, and a potential Cash Management Bank) and each of the L/C Issuers hereby irrevocably appoints and authorizes the Agent to act as the agent of such Lender and such L/C Issuer 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 Agent, as “collateral agent” and any co-agents, sub-agents and attorneys-in-fact appointed by the Agent pursuant to Section 8.5 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof)

granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Agent, shall be entitled to the benefits of all provisions of this Article VIII and Article IX (including Section 9.2(b)), as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto.

8.2 Rights as a Lender

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

8.3 Exculpatory Provisions

(a) The Agent or its Related Parties shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Agent and its Related Parties:

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

(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 the 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 the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any bankruptcy, insolvency or similar law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any bankruptcy, insolvency or similar law; and

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

(b) Neither the Agent nor any of its Related Parties shall be liable for any action taken or not taken by the Agent under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (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 Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.3 and 7.2) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and non-appealable judgment. The Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Agent by the Borrower, a Lender or an L/C Issuer.

(c) Neither the Agent nor any of its Related Parties have any duty or obligation to any Lender or participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article III or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

8.4 Reliance by Agent

The Agent shall be entitled to rely upon, and shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, communication, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The 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 be fully protected in relying and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an L/C Issuer, the Agent may presume that such condition is satisfactory to such Lender or such L/C Issuer unless the Agent shall have received notice to the contrary from such Lender or such L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Agent may consult with legal counsel (who may be counsel for the Loan Parties), 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. For purposes of determining compliance with the conditions specified in Section 3.1, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objections.

8.5 Delegation of Duties

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

8.6 Resignation of Agent

(a) The Agent may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor, which shall be a Lender with an office in the United States, or an Affiliate of any such Lender with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty days after the retiring Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Agent may (but shall not be obligated to) on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above, provided that in no event shall any such successor Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrower and such Person remove such Person as Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (i) the retiring or removed Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Agent on behalf of the Lenders under any of the Loan Documents, the retiring or removed Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (ii) except for any indemnity payments or other amounts then owed to the retiring or removed Agent, all payments, communications and determinations provided to be made by, to or through the Agent shall instead be made by or to each Lender directly (at the account and location on file with the Agent, which the retiring Agent shall furnish to the Borrower), until such time, if any, as the Required Lenders appoint a successor Agent as provided for above. Upon the acceptance of a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Agent (other than as provided in Section 9.8 and other than any rights to indemnity payments or other amounts owed to the retiring or removed Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 9.1 shall continue in effect for the benefit of such retiring or removed Agent, its sub agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them (i) while the retiring or removed Agent was acting as Agent and (ii) after such resignation or removal for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including (a) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Secured Parties and (b) in respect of any actions taken in connection with transferring the agency to any successor Agent.

(d) Any resignation by Bank of America as Agent pursuant to this Section shall also constitute its resignation as an L/C Issuer and Swing Line Lender. If Bank of America resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit issued by Bank of America and outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto, including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.19(c). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.20(c). Upon the appointment by the Borrower of a successor L/C Issuer or Swing Line Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as applicable, (ii) the retiring L/C Issuer and Swing Line

Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents and (iii) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit issued by Bank of America, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

8.7 Non-Reliance on Agent and Other Lenders -.

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

8.8 No Other Duties, Etc .

Anything herein to the contrary notwithstanding, none of the bookrunners, arrangers, syndication agents, documentation agents or managing 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 Agent, a Lender or an L/C Issuer hereunder.

8.9 Agent May File Proofs of Claim; Credit Bidding .

(a) In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the 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 Agent shall have made any demand on the Borrower) 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, 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, the L/C Issuer and the Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer and the Agent and their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and the Agent under Sections 2.19(h) and (i), 2.6, and 9.2) 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, receiver-manager, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the L/C Issuer to make such payments to the Agent and, in the event that the Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuer, to pay to the Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent under Sections 2.6 and 9.2.

(b) Nothing contained herein shall be deemed to authorize the Agent to authorize or consent to or accept or adopt on behalf of any Lender or any L/C Issuer any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any L/C Issuer to authorize the Agent to vote in respect of the claim of any Lender or any L/C Issuer or in any such proceeding.

(c) The Secured Parties hereby irrevocably authorize the Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (i) at any sale thereof conducted under the provisions of the Bankruptcy Code, including under Sections 363, 1123 or 1129 of the Bankruptcy Code, or any similar Laws in any other jurisdictions to which a Loan Party is subject, or (ii) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Capital Stock or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (A) the Agent shall be authorized to form one or more acquisition vehicles to make a bid, (B) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Capital Stock thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 9.3), and (C) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders *pro rata* and the Capital Stock and/or debt instruments issued by any acquisition vehicle on account of the

Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

8.10 Collateral and Guaranty Matters

(a) Each of the Lenders (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank) and the L/C Issuers irrevocably authorize the Agent, at its option and in its discretion,

(i) to release any Lien on any property granted to or held by the Agent under any Loan Document (i) upon the Facility Termination Date, (ii) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing by the Required Lenders in accordance with Section 9.3;

(ii) to subordinate any Lien on any property granted to or held by the Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 6.1(e); and

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

(b) Upon request by the Agent at any time, the Required Lenders will confirm in writing the 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 8.10. In each case as specified in this Section 8.10, the Agent will, at the Borrower's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 8.10.

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

8.11 Secured Cash Management Agreements and Secured Hedge Agreements

Except as otherwise expressly set forth herein or in any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefit of Section 7.3, the Guaranty or any Collateral by virtue of the provisions hereof 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) (or to notice of or to consent to any amendment, waiver or modification of the provisions hereof or of the Guaranty or any Collateral Document) 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 VIII to the contrary, the Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements except to the extent expressly provided herein and unless the Agent has received a Secured Party Designation Notice of such Obligations, together with such supporting documentation as the Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. The Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements in the case of the Facility Termination Date.

8.12 ERISA Matters

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

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Commitments or this Agreement,

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

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to

enter into, participate in, administer and perform the Loans, the Letters of Credit, the Revolving Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Revolving Commitments and this Agreement, or

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

(b) In addition, unless either (1) subclause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with subclause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Agent, BofA Securities, and each other Lead Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Agent, BofA Securities, or any other Lead Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in the Loans, the Letters of Credit, the Revolving Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

ARTICLE IX.

MISCELLANEOUS

9.1 Expenses .

The Borrower shall pay on demand:

(a) any and all reasonable attorneys' fees and disbursements (including allocated costs of in-house counsel) and out-of-pocket costs and expenses incurred by the Agent and its Affiliates in connection with the development, drafting, negotiation and administration of the Loan Documents, any amendments thereto and the syndication and closing of the transactions contemplated thereby;

(b) all reasonable costs and expenses (including fees and disbursements of in-house and other attorneys, appraisers, financial advisors and consultants) incurred by the Lender Parties in any workout, restructuring or similar arrangements or, after an Event of Default, in connection with the protection, preservation, exercise or enforcement of any of the terms of the Loan Documents or in connection with any foreclosure, collection or bankruptcy proceedings; and

(c) all reasonable out-of-pocket expenses incurred by any L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder.

The foregoing costs and expenses shall include all out-of-pocket expenses incurred by the Agent and the cost of independent public accountants and other outside experts retained by the Agent or, to the extent reimbursable under subpart (b) above, any Lender. All amounts due under this Section 9.1 shall be payable within ten Business Days after demand therefor. The agreements in this Section shall survive the termination of the Revolving Commitments and repayment of all other Obligations.

9.2 Indemnity; Damages .

(a) Indemnification by the Borrower. The Borrower shall indemnify the Agent (and any sub-agent thereof), each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all reasonable fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by any Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by such Indemnitee hereto of its obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (it being understood that nothing in this Section 9.2(a) shall require the Borrower to pay attorneys' fees and disbursements and other out-of-pocket costs in connection with the development, drafting, negotiation and administration of the Loan Documents, any amendments thereto and the syndication and closing of the transaction for any Indemnitee other than the Agent and its Affiliates as set forth in Section 9.1(a)) or (ii) any actual or threatened claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final, nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by any Loan Party against an Indemnitee for breach in bad faith of such

Indemnitee's obligations hereunder or under any other Loan Document, if such Loan Party has obtained a final, nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction.

(b) Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under Section 9.1 or subsection (a) of this Section to be paid by it to the Agent (or any sub-agent thereof), any L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Agent (or any such sub-agent), such L/C Issuer or such Related Party, as the case may be, such Lender's pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the outstanding Loans, unfunded Revolving Commitments and participation interests in Swing Line Loans and L/C Obligations of all Lenders at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Revolving Commitment Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Agent (or any such sub-agent) or any L/C Issuer in its capacity as such, or against any Related Party of any of the foregoing acting for the Agent (or any such sub-agent) or any L/C Issuer in connection with such capacity. The obligations of the Lenders under this subsection (b) are subject to the provisions of Section 2.1(e).

(c) Waiver of Damages, Etc. No Indemnitee referred to in subsection (a) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby other than for direct or actual damages resulting from the gross negligence or willful misconduct of such Indemnitee or breach in bad faith of such Indemnitee's obligations hereunder, in each case, as determined by a final judgment of a court of competent jurisdiction.

(d) Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.

(e) Survival. The agreements in this Section shall survive the resignation of the Agent, any L/C Issuer and the Swing Line Lender, the replacement of any Lender, and the Facility Termination Date.

(f) Limit on Indemnity. To the extent that the undertaking to indemnify and hold harmless set forth in Section 9.2(a) may be unenforceable as violative of any Applicable Law or public policy, the Borrower shall make the maximum contribution to the payment and satisfaction of its obligations set forth in Section 9.2(a) that is permissible under Applicable Law.

9.3 Amendments; Waivers; Modifications in Writing .

No amendment of any provision of this Agreement or any other Loan Document (including a waiver thereof or consent relating thereto) shall be effective unless the same shall be in writing and signed by the Agent and the Required Lenders and, except as to a waiver or consent requested by or to the benefit of the Borrower, the Borrower, provided further:

(a) no amendment, waiver, consent, forbearance or other agreement that has the effect of (i) reducing the rate or amount of any amount payable by the Borrower to any Lender Party under the Loan Documents, (other than as a result of waiving the applicability of the Post-Default Rate of interest), (ii) extending the stated maturity or due date, of any amount payable by the Borrower to any Lender Party under the Loan Documents, (iii) increasing the amount, or extending the stated termination or reduction date, of any Lender's Revolving Commitment hereunder or subjecting any Lender Party to any additional obligation to extend credit (it being understood and agreed that a waiver of any Default or Event of Default or a waiver of any mandatory reduction in the Revolving Commitments shall not constitute a change in the terms of any Revolving Commitment of any Lender), (iv) altering the rights and obligations of the Borrower to prepay the Loans, (v) changing Section 2.11 or Section 7.3 in a manner that would alter the pro rata sharing of payments required thereby or (vi) changing this Section 9.3 or the definition of the term "Required Lenders" or any other percentage of Lenders specified in this Agreement to be the applicable percentage to act on specified matters shall be effective unless the same shall be signed by or on behalf of each of the Lenders affected thereby;

(b) no amendment that modifies Article 8 or otherwise has the effect of (i) increasing the duties or obligations of the Agent, (ii) increasing the standard of care or performance required on the part of the Agent, or (iii) reducing or eliminating the indemnities or immunities to which the Agent is entitled (including any amendment of this Section 9.3), shall be effective unless the same shall be signed by or on behalf of the Agent;

(c) no amendment that has the effect of (i) increasing the duties or obligations of the L/C Issuers, (ii) increasing the standard of care or performance required on the part of the L/C Issuers, or (iii) reducing or eliminating the indemnities or immunities to which the L/C Issuers are entitled (including any amendment of this Section 9.3), shall be effective unless the same shall be signed by or on behalf of the L/C Issuers;

(d) no amendment that has the effect of (i) increasing the duties or obligations of the Swing Line Lender, (ii) increasing the standard of care or performance required on the part of the Swing Line Lender, or (iii) reducing or eliminating the indemnities or immunities to which the Swing Line Lender is entitled (including any amendment of this Section 9.3), shall be effective unless the same shall be signed by or on behalf of the Swing Line Lender;

(e) no amendment that has the effect of (i) changing the definition of the term “Tranche A Required Lenders” or any other percentage of Tranche A Lenders specified in this Agreement to be the applicable percentage to act on specified matters, (ii) increasing the duties or obligations of the Tranche A Lenders, (iii) materially changing the terms of the Tranche A Revolving Commitments or the Tranche A Revolving Loans or (iv) reducing or eliminating the indemnities or immunities to which the Tranche A Lenders are entitled (including any amendment of this Section 9.3), shall be effective unless the same shall be signed by or on behalf of each of the Tranche A Lenders;

(f) no amendment that has the effect of (i) changing the definition of the term “Tranche B Required Lenders” or any other percentage of Tranche B Lenders specified in this Agreement to be the applicable percentage to act on specified matters, (ii) increasing the duties or obligations of the Tranche B Lenders, (iii) materially changing the terms of the Tranche B Revolving Commitments or the Tranche B Revolving Loans or (iv) reducing or eliminating the indemnities or immunities to which the Tranche B Lenders are entitled (including any amendment of this Section 9.3), shall be effective unless the same shall be signed by or on behalf of each of the Tranche B Lenders;

(g) the L/C Commitment reflected on Schedule 2.19 may be amended from time to time by the Borrower, the Administrative Agent and the L/C Issuers, to reflect the L/C Commitment of the L/C Issuers in effect from time to time;

(h) the Swing Line Commitment reflected on Schedule 2.20 may be amended from time to time by the Borrower, the Administrative Agent and the Swing Line Lender to reflect the Swing Line Commitment of the Swing Line Lender in effect from time to time; and

(i) any waiver or consent shall be effective only in the specific instance and for the specific purpose for which given;

provided, however, that notwithstanding anything to the contrary herein, each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein.

Except as required herein, no notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances. Any amendment effected in accordance with this Section 9.3 shall be binding upon each present and future Lender Party and the Borrower.

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Revolving Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender more adversely than other affected Lenders shall require the consent of such Defaulting Lender.

Notwithstanding any provision herein to the contrary the Agent and the Borrower may make amendments contemplated by Section 2.12(c).

9.4 Cumulative Remedies: Failure or Delays; Enforcement

The rights and remedies provided for under this Agreement are cumulative and are not exclusive of any rights and remedies that may be available to the Lender Parties under Applicable Law or otherwise. No failure or delay on the part of any Lender Party in the exercise of any power, right or remedy under the Loan Documents shall impair such power, right or remedy or operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or remedy preclude other or further exercise thereof or of any other power, right or remedy.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Agent in accordance with Section 7.2 for the benefit of all the Lenders; provided, however, that the foregoing shall not prohibit (a) the 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, (b) any L/C Issuer or the Swing Line Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swing Line Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 9.7 (subject to the terms of Section 2.11), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any bankruptcy or insolvency proceeding; and provided, further, that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Agent pursuant to Section 7.2 and (ii) in addition to the matters set forth in clauses (c) and (d) of the preceding proviso and subject to Section 2.11, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

9.5 Notices; Effectiveness; Electronic Communication

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier (it being understood that if notice is

given to the Borrower by telecopier, it shall also be sent by electronic mail) as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to any Loan Party or the Agent, Bank of America as L/C Issuer or Swing Line Lender, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 9.5; and

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

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent, if confirmation of receipt has been received (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b). Upon the request of the Borrower, the Agent shall provide the Borrower with copies of the Administrative Questionnaires delivered by the Lenders.

(b) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Agent that it is incapable of receiving notices under such Article by electronic communication. The Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it in writing, provided that approval of such procedures may be limited to particular notices or communications and neither the Borrower nor the Agent shall have any obligation to agree to accept any electronic notices.

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

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to any Loan Party, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Loan Party's or the Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to any Loan Party, any Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc. Each of the Borrower, the Agent, the L/C Issuers and the Swing Line Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto; provided that the Borrower shall only be required to deliver such notice to the Agent and the Agent shall provide such notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the Borrower, the Agent, the L/C Issuers and the Swing Line Lender. In addition, each Lender agrees to notify the Agent from time to time to ensure that the Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and Applicable Law, including United States federal and state securities laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of United States federal or state securities laws.

(e) Reliance by Agent and Lenders. The Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic or electronic Notices of Borrowing, Notices of Loan Prepayment, Letter of Credit Applications and Swing Line Loan Notices) purportedly given by or on behalf of any Loan Party (it being understood that only the Borrower can provide Notices of Borrowing, Notices of Loan Prepayment, Letter of Credit Applications and Swing Line Loan Notices) 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. To the extent otherwise required by Section 9.2 of this Agreement, the Borrower shall indemnify the Agent, each Lender and the Related Parties of each of them from all reasonable losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Loan Party. All telephonic notices to and other telephonic communications with the Agent may be recorded by the Agent, and each of the parties hereto hereby consents to such recording.

9.6 Successors and Assigns; Designations

(a) Successors and Assigns Generally. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder or thereunder without the prior written consent of each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or (iv) to an SPC (as defined in Section 9.6(f)) in accordance with the provisions of subsection (h) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Revolving Commitment and the Loans (including for purposes of this subsection (b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that:

(i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Revolving Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the aggregate amount of the Revolving Commitment (which for this purpose includes Loans outstanding thereunder) or, if the Revolving Commitment are not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000 unless each of the Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld 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) 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 Revolving Commitment assigned, except that this clause (ii) shall not apply to rights in respect of Bid Loans or the Swing Line Lender's rights and obligations in respect of Swing Line Loans;

(iii) no consent shall be required for any assignment except to the extent required by subsection (b)(i) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that it is understood that it shall be reasonable for the Borrower to withhold consent to a new assignee Lender (x) if as a result of such assignment the Borrower would incur additional costs, including without limitation, under Sections 2.13 and 2.16; and the assignee Lender shall provide such information, if requested by the Borrower, in connection with any proposed assignment or (y) if such new assignee Lender is a competitor of the Borrower or an Affiliate of a competitor of the Borrower; provided, further, the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Agent within ten (10) Business Days after having received notice thereof;

(B) the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Revolving Commitment if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; provided that, in consenting to any such assignment, the Agent has no duty to, and shall not be liable to the Borrower, any assignor or assignee Lenders or any of their respective Affiliates for any failure to, inquire or otherwise verify whether or not such assignment is being made to a competitor of the Borrower or an Affiliate of a competitor of the Borrower, and the Agent shall have no duty or obligation to prohibit such assignment; and

(C) the consent of the L/C Issuers and the Swing Line Lender (each such consent not to be unreasonably withheld or delayed) shall be required for any assignment in respect of Tranche A Revolving Loans and Tranche A Revolving

Commitments.

(iv) the parties to each assignment shall execute and deliver to the Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of \$3,500; provided, however, that the Agent may, in its sole discretion, elect to waive 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 Agent an Administrative Questionnaire.

(v) no such assignment shall be made to (A) the Borrower or any of the Borrower's Affiliates or Subsidiaries, (B) any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) a natural Person (or to a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person).

(vi) 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 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 Borrower and the 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 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 and Swing Line Loans in accordance with its Revolving Commitment Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under Applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.13, 2.14, 2.16, 9.1 and 9.2 with respect to facts and circumstances occurring prior to the effective date of such assignment and shall continue to retain the obligations with respect thereto as well); provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender. Upon request, the Borrower (at its expense) shall execute and deliver applicable Note(s) to the assignee Lender, and the assignor Lender shall surrender and cancel any Notes, if requested. 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 subsection (d) of this Section.

(c) Register. The Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Revolving Commitments of, and principal amounts (and stated interest) of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice, and the Borrower may also receive a copy of the Register upon request.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower, the Agent, the Swing Line Lender or any L/C Issuer, sell participations to any Person (other than a natural Person, or holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person, a Defaulting Lender or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Revolving 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, shall be the sole holder of the Note(s), if any, and Loan Documents subject to the participation and shall have the sole right to enforce its rights and remedies under the Loan Documents and (iii) the Borrower, the Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement and the other Loan Documents. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 9.2(b), without regard to the existence of any participation.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Sections 9.3(a) through 9.3(g) that affects such Participant. Subject to the proviso at the end of this sentence, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.13, 2.14 and 2.16 to the same extent as if it were a Lender and had acquired its interest by assignment

pursuant to paragraph (b) of this Section (it being understood that the documentation required under Section 2.16(d), 2.16(e) and 2.16(f) shall be delivered to the Lender who sells the participation); provided that such Participant (A) agrees to be subject to the provisions of Section 9.19 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 2.13 or 2.16, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 9.19 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.7 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.11 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, 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 Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(f) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, so long as any action in accordance with this Section 9.6(f) does not cause increased costs or expenses for the Borrower, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle (an "SPC") the option to fund all or any part of any Loan that such Granting Lender would otherwise be obligated to fund 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 fund all or any part of such Loan, the Granting Lender shall be obligated to fund such Loan pursuant to the terms hereof, (iii) no SPC shall have any voting rights pursuant to Section 9.3 and (iv) with respect to notices, payments and other matters hereunder, the Borrower, the Agent and the Lenders shall not be obligated to deal with an SPC, but may limit their communications and other dealings relevant to such SPC to the applicable Granting Lender. The funding of a Loan by an SPC hereunder shall utilize the Revolving Commitment of the Granting Lender to the same extent that, and as if, such Loan were funded by such Granting Lender. Each party hereto hereby agrees that no SPC shall be liable for any indemnity or payment under this Agreement for which a Lender would otherwise be liable for so long as, and to the extent, the Granting Lender provides such indemnity or makes such payment. Notwithstanding anything to the contrary contained in this Agreement, any SPC may disclose any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or guarantee to such SPC so long as such disclosure is clearly designated as being made on a confidential basis. This Section 9.6(f) may not be amended without the prior written consent of each Granting Lender, all or any part of whose Loan is being funded by an SPC at the time of such amendment.

(g) Resignation as L/C Issuer or Swing Line Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time a Lender acting as an L/C Issuer or the Swing Line Lender assigns all of its Tranche A Revolving Commitment and Tranche A Revolving Loans pursuant to subsection (b) above, such Lender may, as applicable, (i) upon thirty days' notice to the Borrower and the Lenders, resign as an L/C Issuer and/or (ii) upon thirty days' notice to the Borrower, resign as Swing Line Lender. In the event of any such resignation as an L/C Issuer or Swing Line Lender, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of such Lender as an L/C Issuer or Swing Line Lender, as the case may be. If a Lender resigns as an L/C Issuer, it shall retain all the rights, powers, privileges and duties of an L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.19(c)). If Bank of America resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.20(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (1) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, and (2) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit issued by the resigning L/C Issuer, if any, outstanding at the time of such succession or make other arrangements satisfactory to the resigning L/C Issuer to effectively assume the obligations of such resigning L/C issuer with respect to such Letters of Credit.

9.7 Set Off .

In addition to any rights now or hereafter granted under Applicable Law and to the extent not prohibited by law or Contractual Obligation of such Lender Party, during the existence of any Event of Default, each Lender Party is hereby irrevocably authorized by the Borrower, at any time or from time to time, without notice to the Borrower or to any other Person, any such notice being hereby expressly waived, to set off and to appropriate and to apply any and all deposits (general or special, including certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other indebtedness, in each case whether direct or indirect or contingent or matured or unmatured at any time held or owing by such Lender Party to or

for the credit or the account of the Borrower, against and on account of the Obligations, irrespective of whether or not such Lender Party shall have made any demand for payment, provided that such Lender Party shall, promptly following such set off or application, give notice to the Borrower thereof, which notice shall contain an explanation of the basis for the set off or application provided that the failure to give such notice shall not affect the validity of such set off and application; provided, further, 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 Agent for further application in accordance with the provisions of Section 2.22 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 Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff.

9.8 Survival of Agreements, Representations and Warranties

All agreements, representations and warranties made hereunder and in any other Loan Document shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Agent and each Lender regardless of any investigation made by the Agent or any Lender or on their behalf (unless the Agent or such Lender, as applicable, had actual knowledge contrary thereto prior to its reliance), and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding. Without limitation, the agreements and obligations of the Borrower contained in Sections 2.13, 2.16, 9.1, and 9.2 and the obligations of the Lenders under Sections 2.15, 2.16 and 8.7 shall survive the payment in full of all other Obligations.

9.9 Execution in Counterparts

This Agreement may be executed in any number of counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement.

9.10 Complete Agreement

This Agreement, together with the other Loan Documents and the Agent Fee Letter, represents the entire agreement of the parties hereto and supersedes all prior agreements and understandings, oral or written, if any, including any commitment letters or correspondence relating to the Loan Documents or the transactions contemplated therein.

9.11 Limitation of Liability

No claim shall be made by the Borrower or any Lender Party against any party hereto or the Affiliates, directors, officers, employees or agents of any party hereto for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or under any other theory of liability arising out of or related to the transactions contemplated by this Agreement, or any act, omission or event occurring in connection therewith; and the Borrower and each Lender Party waives, releases and agrees not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor. Nothing in this Section 9.11 shall limit the indemnification obligations of the Borrower under Section 9.2 in respect of any such damages actually incurred or paid by an Indemnitee to a third Person.

9.12 WAIVER OF 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 HEREBY 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.

9.13 Confidentiality

Each of the Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' Related Parties who have a specific need to use the Information in connection with this Agreement and any transactions contemplated hereby (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential and to use such Information only in connection with this Agreement and any transactions contemplated hereby), (b) to the extent requested or required by any regulatory authority purporting to have jurisdiction over it, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto in connection with this Agreement and any transactions contemplated hereby and with the understanding that the Information will be used only in connection with this Agreement and any transactions contemplated hereby, (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 substantially the same as those of this Section, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Agent and any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower; (i) to the National Association of Insurance Commissioners or any other similar organization or (j) on a confidential basis to any rating agency in connection with rating any Loan Party or the credit facilities provided hereunder; provided that with respect to clause (c) above, the Agent or the Lender, as applicable, will use reasonable efforts to notify the Borrower prior to any such disclosure. In addition, the Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement (to the extent such information constitutes public information pursuant to the Borrower's SEC disclosure) to market data collectors, similar service providers to the lending industry, and service providers to the Agent and the Lenders in connection with the administration and management of this Agreement, the other Loan Documents and the Revolving Commitments.

For purposes of this Section, "Information" means all information received from the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses, including, without limitation, inventions, improvements, trade secrets, processes, data, software programs, techniques, marketing plans, strategies, forecasts, forward looking statements and projections, estimates and assumptions concerning anticipated results, unpublished copyrightable material, customer lists, customer information, sources of supply, prospects or projections, manufacturing techniques, formulas, research or experimental work, work in process and all information regarding transactions between the Borrower or any Subsidiary and its customers, including without limitation, sales documents, transactions receipts, customer names, account numbers, transaction amounts and dates, other than any such information that is available to the Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower or any Subsidiary. 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 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 except to the extent that Applicable Law imposes additional requirements in which case such Person shall be required to abide by such additional requirements.

Each of the Agent and the Lenders acknowledges that (a) the Information may include material non-public information concerning the Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with Applicable Law, including Federal and state securities laws.

In addition, the Agent may disclose to any agency or organization that assigns standard identification numbers to loan facilities (including, without limitation, the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers) such basic information describing the facilities provided hereunder as is necessary to assign unique identifiers (and, if requested, supply a copy of this Agreement), it being understood that the Person to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to make available to the public only such Information as such person normally makes available in the course of its business of assigning identification numbers.

9.14 Binding Effect; Continuing Agreement

(a) This Agreement shall become effective at such time when all of the conditions set forth in Section 3.1 have been satisfied or waived by the Lenders and it shall have been executed by the Borrower, the Agent, and each Lender, and thereafter this Agreement shall be binding upon and inure to the benefit of each Loan Party, the Agent and each Lender and their respective successors and assigns.

(b) This Agreement shall be a continuing agreement and shall remain in full force and effect until all Loans, L/C Obligations, interest, Fees and other Obligations have been paid in full and the Revolving Commitments are terminated. Upon termination, the Borrower shall have no further obligations (other than the indemnification provisions that survive) under the Loan Documents; provided that should any payment, in whole or in part, of the Obligations be rescinded or otherwise required to be restored or returned by the Agent or any Lender, whether as a result of any proceedings in bankruptcy or reorganization or any similar reason, then the Loan Documents shall automatically be reinstated and all amounts required to be restored or returned and all costs and expenses incurred by the Agent or any Lender in connection therewith shall be deemed included as part of the Obligations.

9.15 NO ORAL AGREEMENTS

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

9.16 USA Patriot Act Notice

Each Lender that is subject to the Act (as hereinafter defined) and the Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into

law October 26, 2001)) (the “Act”), it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name and address of the Loan Parties and other information that will allow such Lender or the Agent, as applicable, to identify the Loan Parties in accordance with the Act. The Borrower shall, promptly following a request by the Agent or any Lender, provide all documentation and other information that the 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 Act.

9.17 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), the Borrower acknowledges and agrees, and acknowledges its Affiliates’ understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Agent, BofA Securities, the other Lead Arrangers and the Lenders are arm’s-length commercial transactions between the Loan Parties and their Affiliates, on the one hand, and the Agent, BofA Securities, the other Lead Arrangers and the Lenders, on the other hand, (B) the Loan Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate, and (C) the Loan Parties are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Agent, BofA Securities, each other Lead Arranger and each Lender each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for any Loan Party or any of its Affiliates, or any other Person and (B) neither the Agent, BofA Securities, any other Lead Arranger nor any Lender has any obligation to any Loan Party or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Agent, BofA Securities, the other Lead Arrangers, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and neither the Agent, BofA Securities, any other Lead Arranger nor any Lender has any obligation to disclose any of such interests to the Borrower and its Affiliates. To the fullest extent permitted by Applicable Law, each Loan Party hereby waives and releases any claims that it may have against the Agent, BofA Securities, the other Lead Arrangers and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

9.18 Electronic Execution of Assignments and Certain Other Documents

The words “execute,” “execution,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby (including without limitation Assignment and Assumptions, amendments or other modifications, Notices of Borrowing, Swing Line Loan Notices, waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that notwithstanding anything contained herein to the contrary the Agent is under no obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Agent pursuant to procedures approved by it.

9.19 Replacement of Lenders

If (i) any Lender requests compensation under Section 2.13, (ii) the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, (iii) a Lender (a “Non-Consenting Lender”) does not consent to a proposed change, waiver, discharge or termination with respect to any Loan Document that has been approved by the Required Lenders as provided in Section 9.3 but requires unanimous consent of all Lenders or all Lenders directly affected thereby (as applicable) or (iv) any Lender is a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the 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 9.6), all of its interests, rights (other than its existing rights to payments pursuant to Sections 2.13 and 2.16) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrower shall have paid to the Agent the assignment fee specified in Section 9.6(b)(iv);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 2.13) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 2.14 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with Applicable Laws; and

(e) in the case of any such assignment resulting from a Non-Consenting Lender's failure to consent to a proposed change, waiver, discharge or termination with respect to any Loan Document, the applicable replacement bank, financial institution or Fund consents to the proposed change, waiver, discharge or termination;

provided that the failure by such Lender to execute and deliver an Assignment and Assumption shall not impair the validity of the removal of such Lender and the mandatory assignment of such Lender's Revolving Commitments and outstanding Loans and participations in L/C Obligations and Swing Line Loans pursuant to this Section 9.19 shall nevertheless be effective without the execution by such Lender of an Assignment and Assumption.

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 Borrower to require such assignment and delegation cease to apply.

9.20 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 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 a Person in respect of any such sum due from it to any other Person 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 Person to whom the sum is owed, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Person owed, 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 Person entitled to receive the payment hereunder in the Agreement Currency, the Borrower, Agent or Lender, as applicable, agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Person owed, 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 Person owed in such currency, the Person entitled to receive the payment, as the case may be, agrees to return the amount of any excess to the Person owed (or to any other Person who may be entitled thereto under Applicable Law).

9.21 Acknowledgement and Consent to Bail-In of Affected Financial Institutions

Solely to the extent any Lender or L/C Issuer that is an Affected Financial Institution is a party to this Agreement and 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 or L/C Issuer 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 or L/C Issuer that is an Affected Financial Institution; and

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

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

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

9.22 Acknowledgement Regarding Any Supported QFCs

To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Swap Contract 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 or any other jurisdiction): 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.

[SIGNATURE PAGES REDACTED]

NORDSTROM, INC.
2019 EQUITY STOCK INCENTIVE PLAN

RESTRICTED STOCK AGREEMENT

Payment for Shares	No payment is required for the shares you receive.
Restriction	The shares awarded may not be sold or transferred for a period of six months following the Date of Award.
Restrictions on Resale	By signing this Agreement, you agree not to sell any shares at a time when applicable laws or Company policies prohibit a sale. This restriction will apply as long as you are a director of the Company.
Applicable Law	This Agreement will be interpreted and enforced under the laws of the State of Washington (without regard to their choice-of-law provisions).
The Plan and	The text of the 2019 Equity Incentive Plan("Plan") is incorporated in this Agreement by reference.
Other Agreements	Any election to defer the shares will be subject to the terms of the Nordstrom Directors Deferred Compensation Plan.

This Agreement, the attached Notice and the Plan constitute the entire understanding between you and the Company regarding this award. Any prior agreements, commitments or negotiations concerning this award are superseded. This Agreement may be amended only by another written agreement, signed by both parties.

**By signing the attached notice,
you agree to all of the terms and conditions
described above and in the Plan.**

Nonqualified Stock Option Award Agreement

Supplemental Award

A NONQUALIFIED STOCK OPTION AWARD (hereinafter the "Option") for the number of shares of Nordstrom Common Stock ("Common Stock"), as noted in the Nonqualified Stock Option Award Notice (the "Notice"), of Nordstrom, Inc., a Washington Corporation (the "Company"), is hereby granted to the Recipient ("Optionee") on the date set forth in the Notice, subject to the terms and conditions of this Award Agreement. The Option is also subject to the terms, definitions and provisions of the Nordstrom, Inc. 2019 Equity Incentive Plan (the "Plan"), adopted by the Board of Directors of the Company (the "Board") and approved by the Company's shareholders, which is incorporated in this Award Agreement. To the extent inconsistent with this Award Agreement, the terms of the Plan shall govern. Terms not defined herein shall have the meanings as set forth in the Plan. The Compensation, People and Culture Committee of the Board (the "Committee") has the discretionary authority to construe and interpret the Plan and this Award Agreement. All decisions of the Committee upon any question arising under the Plan or under this Award Agreement shall be final and binding on all parties. The Option is subject to the following terms and conditions:

1. OPTION EXERCISE PRICE

The Option exercise price is one hundred percent (100%) of the fair market value of a share of Common Stock as determined by the closing price of Common Stock on the New York Stock Exchange on the date of grant. For this purpose, the date of grant is indicated in the Notice.

2. VESTING AND EXERCISING OF OPTION

Except as set forth in Section 5, the Option shall vest and be exercisable pursuant to the terms of the vesting schedule set forth in the Notice. The certificate(s) or shares of Common Stock as to which the Option shall be exercised shall be registered in the name of the person(s) exercising the Option unless another person is specified. An Option hereunder may not at any time be exercised for a fractional number of shares.

- (a) Method of Exercise. The Option shall be exercisable (only to the extent vested) by a written notice in a form prescribed by the Company that shall:
 - (i) state the election to exercise the Option, the number of shares, the total option exercise price, and the name and address of the Optionee;
 - (ii) be signed by the person entitled to exercise the Option; and
 - (iii) be in writing and delivered to Nordstrom Compensation department, or any successor department (either directly or through a broker).
- (b) Payment upon Exercise. Payment of the option exercise price for any shares with respect to which an Option is being exercised shall be by:
 - (i) check or bank wire transfer, or
 - (ii) giving an irrevocable direction for a broker approved by the Company to sell all or part of the Option shares and to deliver to the Company from the sale proceeds an amount sufficient to pay the option exercise price and any amount required to be withheld to meet the Company's minimum statutory withholding requirements, including the employee's share of payroll taxes. (The balance of the sale proceeds, if any, will be delivered to the Optionee.)
- (c) Restrictions on Exercise. The Option may not be exercised if the issuance of the shares upon such exercise would constitute a violation of any applicable federal or state securities or other law or valid regulation, or the Company's Insider Trading Policy. As a condition to the exercise of the Option, the Company may require the person exercising the Option to make any representation and warranty to the Company as the Company's counsel advises and as may be required by the Company or by any applicable law or regulation.

3. ACCEPTANCE OF OPTION AND TERMS

Although the Company may or may not require the Optionee's signature upon accepting the grant, the Optionee remains subject to the terms and conditions of this Award Agreement. The Optionee agrees to comply with any and all legal requirements and Company policies related to this Option or shares of Company Common Stock which may be acquired upon exercise of this Option. The Optionee acknowledges receipt of a copy of the Plan in connection with the acceptance of the Award.

4. NONTRANSFERABILITY OF OPTION

The Option may not be sold, pledged, assigned or transferred in any manner except in the event of the Optionee's death. In the event of the Optionee's death, the Options may be transferred to the person indicated on a valid beneficiary form, as designated by the Company, or if no designated beneficiary form is available, then to the person to whom the Optionee's rights have passed by will or the laws of descent and distribution. Except as set forth in Section 5, the Option may be exercised during the lifetime of the Optionee only by the Optionee or by the guardian or legal representative of the Optionee. The terms of this Award Agreement shall be binding upon the executors, administrators, heirs and successors of the Optionee.

5. SEPARATION OF EMPLOYMENT

Except as set forth in this section, a vested Option may only be exercised while the Optionee is an employee of the Company or one of its subsidiaries (the "Employer"). If an Optionee's employment is terminated, the Optionee or his or her legal representative shall have the right to exercise the Option after such termination as follows:

- (a) If the Optionee dies while employed by the Employer, a prorated number of Options shall immediately vest, based on a number of full months the Optionee was employed during the term of this Award Agreement, and may be exercised during the period ending four years after the Optionee's death. The recipient named on the beneficiary form, as designated by the Company, may exercise such rights. If no valid beneficiary form exists, then the person to whom the Optionee's rights have passed by will or the laws of descent and distribution may exercise such rights. In no event may the Option be exercised more than 10 years from the date of grant. If the Option was granted less than one month prior to death, such Option shall be forfeited as of the date of death.
- (b) If the Optionee is separated due to his or her disability, as defined in Section 22(e)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and the Optionee provides Nordstrom Compensation department, or any successor department, with reasonable documentation of the Optionee's disability, a prorated number of Options shall immediately vest as of the date of such separation, based on a number of full months the Optionee was employed during the term of this Award Agreement, and may be exercised during the period ending four years after separation. In no event may the Option be exercised more than 10 years from the date of grant. If the Option was granted less than one month prior to separation due to the Optionee's disability, such Option shall be forfeited as of the date of separation.
- (c) Notwithstanding subparagraphs (a) and (b) of this section, the Optionee shall immediately forfeit any unvested and vested Options represented by this Award and any shares of Common Stock or proceeds from the sale of such shares of Common Stock, and the post-separation vesting and exercise rights of the Option set forth above shall cease immediately, if: (i) he or she is terminated by the Company or any of its subsidiaries for: embezzlement, theft of funds, fraud, violation of rules, regulations or policies, or any intentional harmful act or acts; or (ii) he or she at any time during the term of this Award directly or indirectly, either as an employee, employer, consultant, agent, principal, partner, shareholder, corporate officer, director or in any other capacity, with respect to the Company or any of its subsidiaries, engages or assists any third party in engaging in any competitive business, divulges any confidential or proprietary information to a third party who is not authorized to receive the confidential or proprietary information, or improperly uses any confidential or proprietary information.
- (d) If the Optionee is separated for any reason other than those set forth in subparagraphs (a), (b) and (c) above, the Optionee (or Optionee's beneficiary) may exercise his or her Option, to the extent vested as of the date of his or her separation, within 100 days after separation. In no event may the Option be exercised more than 10 years from the date of grant. Any unvested options will be forfeited as of the date of separation.

6. TERM OF OPTION

The Option may not be exercised more than 10 years from the date of grant of the Option, and the vested portion of such Option may be exercised during such term only in accordance with the Plan and the terms of the Option.

7. ADJUSTMENTS UPON CHANGES IN CAPITALIZATION

The Option shall be adjusted pursuant to the Plan, in such manner, to such extent (if any) and at such time as the Committee deems appropriate in the circumstances, to reflect any stock dividend, stock split, split up, extraordinary cash dividend, any combination or exchange of shares or other Strategic Transaction.

8. ADDITIONAL OPTIONS

The Committee may or may not grant the Optionee additional Options in the future. Nothing in this Option or any future grant should be construed as suggesting that additional grants to the Optionee will be forthcoming.

9. LEAVES OF ABSENCE

For purposes of this Award Agreement, the Optionee's service does not terminate due to a military leave, a medical leave or another bona fide leave of absence if the leave was approved by the Employer in writing and if continued crediting of service is required by the terms of the leave or by applicable law. But, service terminates when the approved leave ends unless the Optionee immediately returns to active work.

If the Optionee goes on a leave of absence approved by the Employer, then the vesting schedule specified in the Notice may be adjusted in accordance with the Employer's leave of absence policy or the terms of the leave.

10. TAX WITHHOLDING

In the event that the Company determines that it is required to withhold any tax as a result of the exercise of the Option, the Optionee, as a condition to the exercise of their Option, shall make arrangements satisfactory to the Company to enable it to satisfy all withholding requirements.

11. INDEPENDENT TAX ADVICE

The tax consequences to the Optionee of receiving the Option or disposing of the shares of Common Stock which may be issuable upon the exercise of the Option is complicated and will depend, in part, on the Optionee's specific tax situation. The Optionee is advised to consult with an independent tax advisor for a full understanding of the specific tax consequences of receiving the Option or disposing of the shares of Common Stock which may be received upon exercise of the Option.

12. RIGHTS AS A SHAREHOLDER

Neither the Optionee nor the Optionee's beneficiary or representative shall have any rights as a shareholder with respect to any Common Stock subject to the Option, unless and until (i) the Optionee or the Optionee's beneficiary or representative becomes entitled to receive such Common Stock by filing a notice of exercise and paying the option exercise price pursuant to the Option, and (ii) the Optionee or Optionee's beneficiary or representative has satisfied any other requirement imposed by applicable law or the Plan.

13. NO RETENTION RIGHTS

Nothing in this Award Agreement or in the Plan shall give the Optionee the right to be retained by the Employer as an employee or in any capacity. The Employer reserves the right to terminate the Optionee's service at any time, with or without cause.

14. CLAWBACK POLICY

The Option, and any proceeds (Common Stock or cash) received in connection with the exercise of the Option or subsequent sale of such issued Common Stock, shall be subject to the Clawback Policy adopted by the Company's Board, as amended from time to time.

In the event the Clawback Policy is deemed unenforceable with respect to the Option, or with respect to the proceeds received in connection with the exercise of the Option or subsequent sale of Common Stock issued pursuant to the Option, then the Option grant subject to this Award Agreement shall be deemed unenforceable due to lack of adequate consideration.

15. ENTIRE AGREEMENT

The Notice, this Award Agreement and the Plan constitute the entire contract between the parties hereto with regard to the subject matter hereof. They supersede any other agreements, representations or understandings (whether oral or written and whether express or implied) that relate to the subject matter hereof.

Certification required by Section 302(a) of the Sarbanes-Oxley Act of 2002

I, Erik B. Nordstrom, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Nordstrom, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: June 10, 2020

/s/ Erik B. Nordstrom

Erik B. Nordstrom
Chief Executive Officer of Nordstrom, Inc.

Certification required by Section 302(a) of the Sarbanes-Oxley Act of 2002

I, Anne L. Bramman, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Nordstrom, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: June 10, 2020

/s/ Anne L. Bramman

Anne L. Bramman

Chief Financial Officer of Nordstrom, Inc.

NORDSTROM, INC.
1617 SIXTH AVENUE
SEATTLE, WASHINGTON 98101
CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Nordstrom, Inc. (the "Company") on Form 10-Q for the period ended May 2, 2020, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, Erik B. Nordstrom, Chief Executive Officer (Principal Executive Officer), and Anne L. Bramman, Chief Financial Officer (Principal Financial Officer), of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: June 10, 2020

/s/ Erik B. Nordstrom

Erik B. Nordstrom

Chief Executive Officer of Nordstrom, Inc.

/s/ Anne L. Bramman

Anne L. Bramman

Chief Financial Officer of Nordstrom, Inc.

A signed original of this written statement required by Section 906 has been provided to Nordstrom, Inc. and will be retained by Nordstrom, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.