
SECOND LIEN CREDIT AGREEMENT

Dated as of [____], 2010

among

[REORGANIZED RDA HOLDING CO.],

[REORGANIZED THE READER'S DIGEST ASSOCIATION, INC.],

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent

J.P. MORGAN SECURITIES INC.,
as Sole Lead Arranger and Sole Bookrunner

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CREDIT AGREEMENT

This SECOND LIEN CREDIT AGREEMENT (“**Agreement**”) is entered into as of [____], 2010, among [RESTRUCTURED RDA HOLDING CO.], a Delaware corporation (“**Holdings**”), [RESTRUCTURED THE READER’S DIGEST ASSOCIATION, INC.], a Delaware corporation (the “**Borrower**”), JPMORGAN CHASE BANK, N.A., as Administrative Agent, and the several banks and other financial institutions or entities from time to time parties to this Agreement (consisting initially of the holders of Prepetition Credit Agreement Claims (as defined below)) (collectively, the “**Lenders**” and each a “**Lender**”).

PRELIMINARY STATEMENTS

On August 24, 2009 (the “**Petition Date**”), Holdings and certain of its Subsidiaries (collectively, the “**Debtors**”) filed voluntary petitions with the Bankruptcy Court (such term and other capitalized terms used in these preliminary statements being used with the meanings given to such terms in Section 1.01) initiating the Cases and continued in the possession of their assets and in the management of their businesses pursuant to Bankruptcy Code Sections 1107 and 1108.

On [____], 2010, the Bankruptcy Court entered the Confirmation Order confirming the Debtors’ [Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated [____], 2010] (as in effect on the date of confirmation thereof and as thereafter may be amended as provided in this agreement, the “**Reorganization Plan**”).

In connection with the confirmation and consummation of the Reorganization Plan, the reorganized Debtors shall issue to the holders of Prepetition Credit Agreement Claims certain second lien term loans, and in partial satisfaction of the Prepetition Credit Agreement Claims, the holders of the Prepetition Credit Agreement Claims shall automatically become parties to this Agreement on the Effective Date.

Accordingly, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

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

“**Administrative Agent**” means JPMorgan Chase Bank, in its capacity as administrative agent under any of the Loan Documents, or any permitted successor administrative agent.

“**Administrative Agent’s Office**” means the Administrative Agent’s address and, as appropriate, account as set forth in Section 10.02 or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders in writing (including by electronic mail or by posting to Intralinks or other similar information transmission systems).

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

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

“**Agent-Related Persons**” means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

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

“**Agreement**” has the meaning specified in the introductory paragraph hereto.

“**Alternative Currency**” means Sterling, Euros, Canadian Dollars or Australian Dollars.

“**Applicable Rate**” means a percentage per annum equal to (a) 11% with respect to Base Rate Loans and (b) 12% with respect to Eurodollar Rate Loans.

“**Approved Bank**” has the meaning specified in clause (c) of the definition of “Cash Equivalents”.

“**Approved Fund**” means any Fund that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

“**Arranger**” means J.P. Morgan Securities Inc., in its capacity as Sole Lead Arranger and Sole Bookrunner under this Agreement.

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

“**Assignment and Assumption**” means an Assignment and Assumption substantially in the form of Exhibit D.

“**Attorney Costs**” means and includes all reasonable fees, expenses and disbursements of any law firm or other external legal counsel.

“**Attributable Indebtedness**” means, on any date, in respect of any Capital Lease Obligation of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP.

“**Audited Financial Statements**” means the audited consolidated balance sheets of the Borrower and its consolidated Subsidiaries as of each of June 30, 2007, June 30, 2008 and June 30, 2009, and the related audited consolidated statements of income, stockholders’ equity and cash flows for the Borrower and its consolidated Subsidiaries for the periods ended on such dates.

“**Australian Dollars**” means the lawful currency of Australia.

“**Bankruptcy Code**” means the Bankruptcy Reform Act of 1978, as heretofore and hereafter amended, and codified as 11 U.S.C. §§101 et seq.

“**Bankruptcy Court**” means the United States Bankruptcy Court for the Southern District of New York, or any other court having jurisdiction over the Cases from time to time.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by JPMorgan Chase Bank as its “prime rate” and (c) the Eurodollar Rate for a Eurodollar Rate Loan with a one month Interest Period plus 1%. The “prime rate” is a rate set by JPMorgan Chase Bank based upon various factors including JPMorgan Chase Bank 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 rate announced by JPMorgan Chase Bank shall take effect at the opening of business on the day specified in the public announcement of such change.

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

“Board” means the Board of Governors of the Federal Reserve System of the United States (or any successor).

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

“Borrowing” means a deemed making of Loans pursuant to Section 2.01.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent’s Office is located or in The City of New York; *provided*, that when used in connection with a Eurodollar Rate Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in deposits in Dollars in the London interbank market.

“Canadian Dollars” means the lawful currency of Canada.

“Capital Expenditures” means, for any period, with respect to any Person, the aggregate of all expenditures by such Person and its consolidated Subsidiaries for the acquisition or leasing (pursuant to a capital lease) of fixed or capital assets or additions to equipment (including replacements, capitalized repairs and improvements during such period) that are required to be capitalized under GAAP on a consolidated balance sheet of such Person and its Subsidiaries, but excluding (i) such expenditures that are made with all or any portion of any Net Cash Proceeds arising from Casualty Event or any Disposition which are reinvested, (ii) capitalized interest, (iii) such expenditures for which such Person is reimbursed in cash by a third party (other than any Group Member), (iv) the purchase price of equipment that is purchased during such period to the extent the consideration therefor consists of (x) existing equipment traded in at the time of such purchase or (y) the proceeds of a concurrent sale of existing equipment, in each case in the ordinary course of business, (v) the book value of any asset owned by the Borrower or any Subsidiary prior to or during such period to the extent that such book value is included as a capital expenditure during such period as a result of such Person reusing or beginning to reuse such asset during such period without a corresponding expenditure actually having been made in such period; provided that (x) any expenditure necessary in order to permit such asset to be reused shall be included as a Capital Expenditure during the period that such expenditure actually is made and (y) such book value shall have been included in Capital Expenditures when such asset was originally acquired and (vi) such expenditures made to fund the purchase price for assets acquired as part of a Permitted Acquisition.

“Capital Lease Obligations” means, the obligations of a 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, for the purposes of this Agreement, the amount of

such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

“**Cases**” means the jointly administered chapter 11 cases of the Debtors captioned In re The Reader’s Digest Association, Inc., Case No. 09-23529 (RDD), arising upon the filing by the Debtors of voluntary petitions for relief with the Bankruptcy Court on the Petition Date.

“**Cash Election**” has the meaning specified in Section 2.05(b).

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

- (a) Dollars, Euros or other Alternative Currency or, in the case of any Foreign Subsidiary, such local currencies held by it from time to time in the ordinary course of business;
- (b) marketable obligations issued or directly and fully guaranteed or insured by the government or any agency or instrumentality of (i) the United States or (ii) any member nation of the European Union, having average maturities of not more than 12 months from the date of acquisition thereof; *provided* that the full faith and credit of the United States or a member nation of the European Union is pledged in support thereof;
- (c) time deposits with, or certificates of deposit, overnight bank deposits or bankers’ acceptances issued or guaranteed by, or money market deposit accounts issued or offered by, any commercial bank that (i) is a Lender or (ii) (A) is organized under the Laws of the United States, any state thereof, the District of Columbia or any member nation of the Organization for Economic Cooperation and Development or is the principal banking Subsidiary of a bank holding company organized under the Laws of the United States, any state thereof, the District of Columbia or any member nation of the Organization for Economic Cooperation and Development, and is a member of the Federal Reserve System, and (B) has combined capital and surplus of at least \$250,000,000 (any such bank in the foregoing clauses (i) or (ii) being an “**Approved Bank**”), in each case with average maturities of not more than 12 months from the date of acquisition thereof;
- (d) commercial paper and variable or fixed rate notes issued by an Approved Bank (or by the parent company thereof) or any commercial paper or any variable or fixed rate note issued by, or guaranteed by, a corporation rated A-2 (or the equivalent thereof) or better by S&P or P-2 (or the equivalent thereof) or better by Moody’s, in each case with average maturities of not more than 12 months from the date of acquisition thereof;
- (e) fully collateralized repurchase agreements entered into by any Person with a bank or trust company (including any of the Lenders) or recognized securities dealer, in each case, having capital and surplus in excess of \$250,000,000 for direct obligations issued by or fully guaranteed or insured by the government or any agency or instrumentality of (i) the United States or (ii) any member nation of the European Union;
- (f) securities with average maturities of 12 months or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government having an investment grade rating from either S&P or Moody’s (or the equivalent thereof);

(g) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's;

(h) instruments equivalent to those referred to in clauses (a) through (g) above denominated in Euros or other Alternative Currency or any other foreign currency comparable in credit quality and tenor to those referred to above and customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by any Subsidiary organized in such jurisdiction; and

(i) Investments in money market investment or similar programs which are registered under the Investment Company Act of 1940 or which are administered by financial institutions having capital of at least \$250,000,000, and, in either case, the portfolios of which are limited such that substantially all of such investments are of the character, quality and maturity described in clauses (a) through (h) of this definition.

"Cash Management Obligations" means obligations owed by Holdings, the Borrower or any Subsidiary to any "Lender" or any "Affiliate" of a "Lender" under the First Lien Credit Agreement or any Lender or Affiliate of a Lender hereunder in respect of any overdraft and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfers of funds; provided that, prior to the First Priority Obligations Payment Date, any "Cash Management Obligations" under the First Lien Credit Agreement shall not be Cash Management Obligations hereunder.

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

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as subsequently amended.

"CERCLIS" means the Comprehensive Environmental Response, Compensation, and Liability Information System maintained by the U.S. Environmental Protection Agency.

"Change of Control" means the earliest to occur of:

(a) after giving effect to the Reorganization Plan, the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the SEC thereunder as in effect on the date hereof), of Equity Interests representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Holdings;

(b) after giving effect to the Reorganization Plan, the board of directors of Holdings ceasing to consist of a majority of the Continuing Directors; or

(c) Holdings ceasing to own, directly, all of the outstanding Equity Interests in the Borrower.

"Charges" has the meaning specified in Section 10.10.

“**Closing Date**” means the first date all the conditions precedent in Article IV are satisfied or waived in accordance with Article IV.

“**Code**” means the U.S. Internal Revenue Code of 1986.

“**Collateral**” means all property of the Loan Parties, now or hereafter acquired, upon which a Lien in favor of the Secured Parties is purported to be created by any Collateral Document.

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

(a) the Administrative Agent shall have received each Collateral Document required to be delivered on the Closing Date pursuant to Article IV(a)(iii) or pursuant to Section 6.11 at such time, duly executed by each Loan Party thereto;

(b) all Obligations shall have been unconditionally guaranteed (the “**Guaranty**”) by Holdings and each Subsidiary that is a Domestic Subsidiary (each, a “**Guarantor**”); provided that, prior to the First Priority Obligations Payment Date, any Subsidiary which is not a “**Guarantor**” under the First Lien Term Loan Documents shall not be required to be a Guarantor hereunder;

(c) except as set forth in Section 6.16, the Obligations and the Guaranty shall have been secured by a security interest in (i) all the Equity Interests of the Borrower and (ii) all Equity Interests of each Subsidiary of the Borrower directly owned by the Borrower or any Guarantor, in each case having the priority required by the Collateral Documents; *provided* that pledges of Equity Interests of each Foreign Subsidiary, and of each Domestic Subsidiary substantially all of whose assets consist of Equity Interests of one or more Foreign Subsidiaries, shall be limited to 65% of the issued and outstanding Equity Interests of such Subsidiary at any time;

(d) except to the extent otherwise permitted hereunder or under any Collateral Document, (i) to the extent governed by the Uniform Commercial Code, the execution of the Collateral Documents shall be effective to create a security interest in all Collateral described therein and proceeds thereof, in each case, to the extent constituting Collateral and with the priority required by the Collateral Documents and (ii) except as set forth in Section 6.16, all documents and instruments, including Uniform Commercial Code financing statements and filings made in respect of Intellectual Property constituting Collateral in the United States Patent and Trademark Office and the United States Copyright Office, reasonably requested by the Administrative Agent to be filed, registered or recorded to create the Liens intended to be created by the Collateral Documents and to perfect such Liens to the extent required by, and with the priority required by, the Collateral Documents, shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording;

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

(f) except as set forth in Section 6.16, the Administrative Agent shall have received (i) counterparts of a Mortgage with respect to any Material Real Property described on Schedule 1.01B hereto or required to be delivered pursuant to Section 6.11 (the “**Mortgaged Properties**”) duly executed and delivered by the record owner of such property, (ii) a policy or policies of title insurance issued by a nationally recognized title insurance company insuring the Lien of each such Mortgage as a valid Lien on the property described therein, free of any other Liens except as expressly permitted by Section 7.01, together with such endorsements, coinsurance and

reinsurance as the Administrative Agent may reasonably request and (iii) such surveys, abstracts, appraisals, legal opinions and other documents as the Administrative Agent may reasonably request with respect to any such Mortgaged Property.

The foregoing definition shall not require the perfection of pledges of or security interests in, or the obtaining of title insurance or surveys with respect to particular assets (including but not limited to Mortgaged Properties) if and for so long as, in the reasonable judgment of the Administrative Agent, the economic detriment to the Loan Parties of perfecting such pledges or security interests or the cost of perfecting such pledges or security interests in such assets or obtaining title insurance or surveys in respect of such assets shall be excessive in view of the benefits to be obtained by the Lenders therefrom. The Administrative Agent may grant extensions of time for the perfection of security interests in or the obtaining of title insurance with respect to particular assets (including extensions beyond the Closing Date for the perfection of security interests in the assets (including but not limited to Mortgaged Properties) of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that perfection or obtaining title insurance cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary, Liens required to be granted from time to time pursuant to the Collateral and Guarantee Requirement shall be subject to exceptions and limitations set forth in the Collateral Documents as in effect on the Closing Date and, to the extent appropriate in the applicable jurisdiction, as agreed between the Administrative Agent and the Borrower.

“Collateral Documents” means, collectively, the Guarantee and Security Agreement, the Mortgages, Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Administrative Agent and the Lenders pursuant to Section 6.11 or Section 6.16 and each of the other agreements, instruments or documents that creates or purports to create a Lien or Guarantee in favor of the Administrative Agent for the benefit of the Secured Parties.

“Committee” means the statutory unsecured creditors committee appointed in the Cases on August 31, 2009.

“Compensation Period” has the meaning specified in Section 2.09(c)(ii).

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

“Confirmation Order” has the meaning specified in Article IV(g).

“Consolidated EBITDA” means, for any period, the Consolidated Net Income for such period, plus:

(a) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) total interest expense and, to the extent not reflected in such total interest expense, any losses on hedging obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such hedging obligations, and costs of surety bonds in connection with financing activities,

(ii) taxes and provision for taxes, including taxes based on income, profits or capital of the Borrower and its Subsidiaries and state, franchise and similar taxes and foreign withholding taxes paid or accrued during such period,

(iii) depreciation and amortization,

(iv) Non-Cash Charges,

(v) (x) any costs, fees, expenses or disbursements of attorneys, auditors, consultants or advisors to the Borrower and its Subsidiaries and to the Committee, in each case, incurred in connection with the events leading up to and the ongoing administration of and completion of the Cases (until the closing thereof), the Reorganization Plan and the transactions contemplated thereby and any other financial restructuring and the negotiation, execution and documentation of the DIP Credit Agreement, the First Lien Credit Agreement, this Agreement and any amendments, waivers or other modifications to the Prepetition Credit Agreement or the DIP Credit Agreement, together with any such costs, fees, expenses or disbursements paid to the attorneys, auditors, consultants and advisors of the agents and lenders in connection therewith, and (y) any upfront, arrangement or other fees paid by the Loan Parties in connection with the DIP Credit Agreement, the First Lien Credit Agreement, and this Agreement, and any other financing entered into in connection with the Reorganization Plan and the transactions contemplated thereby.

(vi) charges, premiums and expenses associated with the discharge of Prepetition Indebtedness,

(vii) any deductions consisting of subsidiary income attributable to minority interests in Reader's Digest Association Ltd., except to the extent actually paid to a holder of Equity Interests in such Subsidiary (or any designee of such Person) other than the Borrower and its Subsidiaries (with such payments to be deducted in the period made),

(viii) transaction costs, fees and expenses payable in connection with the incurrence of Indebtedness permitted under Section 7.03 (in each case whether or not any such incurrence is successful),

(ix) any costs or expenses incurred by the Borrower or a Subsidiary pursuant to any management equity plan or stock option plan or other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of Holdings,

(x) expenses resulting from liability or casualty events,

(xi) non-cash charges pursuant to SFAS 158, and

(xii) non-cash income or expenses from the continuation of purchase accounting adjustments in connection with the Transaction (as defined in the Prepetition Credit Agreement as in effect immediately prior to the effectiveness of the First Lien Credit Agreement), *less*

(xiii) non-recurring and other one-time costs incurred by the Borrower or its Subsidiaries in connection with the reorganization of its and its Subsidiaries' business, operations and structure, including, without limitation, relating to the sale or closing of facilities, establishment of telephone hotlines, the hiring of temporary employees, severance, stay bonuses and curtailments or modifications to pension and post-retirement employee benefit plans, asset writedowns or asset disposals (including leased facilities), writedowns for purchase and lease commitments, start up costs for new facilities, writedowns of excess, obsolete or unbalanced inventories, relocation costs, including costs of moving and relocating personnel, equipment, facilities, personal property and inventory, which are not otherwise capitalized and any related promotional costs of exiting products or product lines and other restructuring costs associated with the Cases or the Reorganization Plan (to the extent not otherwise contemplated by the definition of Consolidated EBITDA) (for the avoidance of doubt, all accruals for the payment of bonuses (and associated payroll taxes) under the Enterprise Value Maximization Plan shall be treated as restructuring costs), in an aggregate amount for all costs included in this clause (xiii) not to exceed (A)(x) \$20,000,000 for the period beginning on the Closing Date and ending on December 31, 2010 and (y) \$10,000,000 for each calendar year ended thereafter plus (B) the amount of any costs described above incurred in connection with any move of the Borrower's Canary Wharf operations in an aggregate amount not to exceed \$25,000,000 during the term of this Agreement; *provided*, that to the extent that the aggregate amount of all costs included in clause (A) above for any calendar year is less than the maximum amount set forth therein, the amount of such difference may be carried forward to increase the maximum amount of costs permitted by clause (A) above for the next succeeding calendar year (it being understood that such costs in any calendar year shall be counted against the base amount set forth in clause (A) above with respect to such calendar year prior to being counted against any available carried forward amount with respect to such calendar year),

(xiv) to the extent actually reimbursed, expenses incurred to the extent covered by indemnification provisions in any agreement in connection with a Permitted Acquisition, and

(xv) foreign exchange losses resulting from the impact of foreign currency changes on the valuation of assets or liabilities on the balance sheet of the Borrower and its consolidated Subsidiaries, *less*

(b) without duplication and to the extent included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) extraordinary gains and unusual or non-recurring gains,

(ii) non-cash gains (excluding any ordinary course non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period),

(iii) gains on asset sales (other than asset sales in the ordinary course of business),

(iv) any net after-tax income from the early extinguishment of Indebtedness or hedging obligations or other derivative instruments,

- (v) all gains from sales of investments recorded using the equity method,
- (vi) foreign exchange gains resulting from the impact of foreign currency changes on the valuation of assets or liabilities on the balance sheet of the Borrower and its consolidated Subsidiaries, and
- (vii) any additions resulting from subsidiary losses attributable to minority interests in Reader's Digest Association Ltd.,

in each case, as determined on a consolidated basis for the Borrower and its Subsidiaries in accordance with GAAP; *provided that*, to the extent included in Consolidated Net Income,

- (i) there shall be excluded in determining Consolidated EBITDA currency translation gains and losses related to currency measurements of Indebtedness (including the net loss or gain resulting from Swap Contracts for currency exchange risk),
- (ii) there shall be excluded in determining Consolidated EBITDA for any period any adjustments resulting from the application of Statement of Financial Accounting Standards No. 133,
- (iii) there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset sold, transferred or otherwise disposed of closed or classified as discontinued operations by the Borrower or any Subsidiary during such period (each such Person, property, business or asset so sold or disposed of, a **"Sold Entity or Business"**), based on the actual Disposed EBITDA of such Sold Entity or Business for such period (including the portion thereof occurring prior to such sale, transfer or disposition), and
- (iv) there shall be excluded in determining Consolidated EBITDA for any period any non-cash impact attributable to the Borrower's adoption of fresh-start accounting in accordance with GAAP upon effectiveness of the Reorganization Plan.

For the purpose of the definition of Consolidated EBITDA, **"Non-Cash Charges"** means (a) non-cash losses on asset sales, disposals or abandonments (other than of current assets), (b) any impairment charge or asset write-off related to intangible assets, long-lived assets, and investments in debt and equity securities pursuant to GAAP, (c) all losses from investments recorded using the equity method, (d) stock-based awards compensation expense, and (e) other non-recurring non-cash charges (*provided that* if any non-cash charges referred to in this clause (e) represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA in such future period to such extent, and excluding non-cash charges consisting of amortization of a prepaid cash item that was paid in a prior period). Notwithstanding the foregoing, Consolidated EBITDA for the fiscal quarters ending March 31, 2009, June 30, 2009 and September 30, 2009 shall be deemed to be \$17,285,000, \$82,976,000 and \$1,461,000, respectively.

"Consolidated EBITDA Event" means that for the period of twelve months most recently ended on or prior to the Interest Period for which the Borrower makes an Interest Election, Consolidated EBITDA for the Borrower and its consolidated Subsidiaries shall be less than \$180,000,000.

"Consolidated Fixed Charge Coverage Ratio" means, for any Test Period, the ratio of (a) Consolidated EBITDA for such Test Period to (b) Consolidated Fixed Charges for such Test Period.

“Consolidated Fixed Charges” means, for any Test Period, the sum (without duplication) of (a) Consolidated Interest Expense for such Test Period, (b) the aggregate amount actually paid by the Borrower and its consolidated Subsidiaries during such Test Period on account of Capital Expenditures other than Capital Expenditures, to the extent financed with any proceeds from Indebtedness (other than any Loans) and (c) scheduled payments made during such Test Period on account of principal of Indebtedness of the Borrower and its consolidated Subsidiaries (excluding principal payments made in connection with the Prepetition Credit Agreement (other than the Prepetition Euro Term Loans)).

“Consolidated Interest Expense” means, for any Test Period, that portion of interest expense (including that attributable to Capital Lease Obligations) of the Borrower and its consolidated Subsidiaries paid or accrued under GAAP for such Test Period that is currently payable in cash for such Test Period with respect to all outstanding Indebtedness of the Borrower and its consolidated Subsidiaries determined on a consolidated basis in accordance with GAAP; *provided*, that Consolidated Interest Expense for any Test Period shall exclude (a) any amortization or write-off of deferred financing fees during such Test Period, (b) premiums paid in connection with the discharge of Indebtedness, (c) interest expense in connection with the Senior Subordinated Notes and (d) interest expense in connection with the Prepetition Credit Agreement (other than the Prepetition Euro Term Loans; *provided, further*, that Consolidated Interest Expense for any Test Period shall include for the period prior to the Closing Date interest expense in connection with the First Lien Term Loans as if \$150,000,000 of U.S. Term Loans (as defined in the First Lien Credit Agreement) had been made on the first day of such Test Period).

“Consolidated Net Income” means, for any period, the net income (loss) of the Borrower and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, excluding, without duplication, (a) the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary of Holdings or is merged into or consolidated with Holdings or any of its Subsidiaries and (b) the income (or deficit) of any Person (other than a Subsidiary of the Borrower) in which the Borrower or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by (or such deficit is actually distributed to) the Borrower or such Subsidiary in the form of dividends or similar distributions.

“Consolidated Total Debt” means, as of any date of determination, the aggregate principal amount of Indebtedness of the Borrower and its Subsidiaries outstanding on such date, determined on a consolidated basis in accordance with GAAP (but excluding the effects of any discounting of Indebtedness resulting from the application of purchase accounting in connection with any Permitted Acquisition), required to be reflected as “indebtedness” (or the equivalent thereof) on a consolidated balance sheet of the Borrower in accordance with GAAP (other than Indebtedness described in clause (b) (other than in respect of drawings thereunder to the extent not reimbursed within two Business Days after the date of such drawing) or (c) of the definition of Indebtedness).

“Continuing Directors” means the directors of Holdings on the Closing Date and each other director, if, in each case, such other directors’ nomination for election to the board of directors of Holdings is recommended by a majority of the then Continuing Directors.

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

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

“Conversion or Continuation Notice” means a notice of (a) a conversion of Loans from one Type to the other, or (b) a continuation of Eurodollar Rate Loans, pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit A.

“Debt Issuance” means the issuance by any Person and its Subsidiaries of any Indebtedness for borrowed money.

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

“Debtor Relief Laws” means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally (including, in the case of Loan Parties incorporated or organized in England or Wales, administration, administrative receivership, voluntary arrangement and schemes of arrangement).

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

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

“Defaulting Lender” means any Lender that (a) has failed to pay over to the Administrative Agent or any other Lender any amount required to be paid by it hereunder within one (1) Business Day of the date when due, unless subsequently cured or (b) has been deemed insolvent or become the subject of a bankruptcy or insolvency proceeding.

“Designated Non-Debtors” means the Subsidiaries set forth on Schedule 1.01C.

“Designated Obligations” means all obligations of the Borrower with respect to (a) principal of and interest on the Loans and (b) accrued and unpaid fees under the Loan Documents.

“DIP Agent” means JPMorgan Chase Bank, N.A. in its capacity as administrative agent for the lenders under the DIP Credit Agreement.

“DIP Credit Agreement” means the Credit and Guarantee Agreement, dated as of August 26, 2009, among Holdings, the Borrower and certain of the Borrower’s Subsidiaries, the lenders from time to time party thereto, the DIP Agent and the other parties thereto, as amended, supplemented or otherwise modified prior to the date hereof.

“DIP Facility” means the term loan facility made available under the DIP Credit Agreement.

“Disposed EBITDA” means, with respect to any Sold Entity or Business for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business (determined as if references to the Borrower and its Subsidiaries in the definition of Consolidated EBITDA were references to such Sold Entity or Business and its Subsidiaries), all as determined on a consolidated basis for such Sold Entity or Business.

“Disposition” or **“Dispose”** means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction and any sale of Equity Interests held in another Person) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith; and, other than for purposes of Section 2.03(b)(ii), shall include any issuance by a Person of any of its Equity Interests to another Person.

“Disqualified Equity Interests” means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) requires the scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 91 days after the Maturity Date.

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

“Domestic Subsidiary” means any Subsidiary that is organized under the Laws of the United States, any state thereof or the District of Columbia.

“ECF Percentage” means 75%; provided that with respect to each fiscal year of the Borrower, the ECF Percentage shall be 50% in respect of such fiscal year if the Total Leverage Ratio as of the last day of such fiscal year is less than 3.00 : 1.00.

“Effective Date” means the effective date of the Reorganization Plan.

“Eligible Assignee” means any Assignee permitted by and consented to in accordance with Section 10.07(b).

“EMU” means the economic and monetary union in accordance with the Treaty of Rome 1957, as amended by the Single European Act 1986, the Maastricht Treaty of 1992 and the Amsterdam Treaty of 1998.

“EMU Legislation” means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

“Enterprise Value Maximization Plan” means the Borrower’s Enterprise Value Maximization Plan, effective as of the Effective Date.

“Environmental Laws” means any and all Laws (including common law) relating to pollution, the protection of the environment, the protection of natural resources, or, to the extent relating to exposure to hazardous substances, the protection of human health or to the release of any pollutants into the environment, including those related to air emissions and discharges to public water or waste treatment systems.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d)

the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Permit” means any permit, approval, identification number, license or other authorization required under any Environmental Law.

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

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

“ERISA Affiliate” means any trade or business (whether or not incorporated) that is under common control with any Loan Party within the meaning of Section 4001 of ERISA.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization or is in endangered or critical status (within the meaning of Section 432 of the Code or Section 305 or Title IV of ERISA); (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any ERISA Affiliate; (g) a determination that any Pension Plan is, or is expected to be, in “at risk” status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (h) the filing pursuant to Section 412 of the Code or Section 303 of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or the failure of any Loan Party or any ERISA Affiliates to make any required contribution to a Multiemployer Plan; or (i) any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived.

“Euro” and **“€”** means the lawful currency of the Participating Member States introduced in accordance with EMU Legislation.

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

- (a) the rate per annum equal to the rate determined by the Administrative Agent to be the offered rate that appears on the page of the Reuters Screen LIBOR01 Page (or any successor thereto) that displays an average British Bankers Association Interest Settlement Rate for deposits in Dollars (for delivery on the first day of such Interest Period) with a term

equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period, or, if different, the date on which quotations would customarily be provided by leading banks in the London Interbank Market for deposits of amounts in the relevant currency for delivery on the first day of such Interest Period, or

(b) if the rate referenced in the preceding clause (a) does not appear on such page or service or such page or service shall not be available, the rate per annum equal to the rate determined by the Administrative Agent to be the offered rate on such other page or other service that displays an average British Bankers Association Interest Settlement Rate for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period, or, if different, the date on which quotations would customarily be provided by leading banks in the London Interbank Market for deposits of amounts in the relevant currency for delivery on the first day of such Interest Period, or

(c) if the rates referenced in the preceding clauses (a) and (b) are not available, the rate per annum determined by the Administrative Agent as the rate of interest at which deposits in Dollars for delivery on the first day of such Interest Period in Same Day Funds in the approximate amount of the Eurodollar Rate Loan being made, continued or converted by JPMorgan Chase Bank and with a term equivalent to such Interest Period would be offered by JPMorgan Chase Bank's London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period or, if different, the date on which quotations would customarily be provided by leading banks in the London Interbank Market for deposits of amounts in the relevant currency for delivery on the first day of such Interest Period;

provided, that in no event shall the Eurodollar Rate be less than 3.50%.

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

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

“Excess Cash Flow” means, for any period, an amount equal to:

- (a) the sum, without duplication, of:
 - (i) Consolidated Net Income for such period,
 - (ii) an amount equal to the amount of all non-cash charges (including depreciation and amortization) to the extent deducted in arriving at such Consolidated Net Income,
 - (iii) an amount equal to the aggregate net non-cash loss on Dispositions by the Borrower and its Subsidiaries during such period (other than sales of inventory in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income,
 - (iv) decreases in Consolidated Working Capital for such period, and

(v) consolidated cash receipts in respect of Swap Contracts during such fiscal year to the extent not otherwise included in Consolidated Net Income; and

minus

(b) the sum, without duplication among the clauses below and without duplication of any amounts otherwise deducted in arriving at Consolidated Net Income for such period, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income,

(ii) an amount equal to the aggregate net non-cash gain on Dispositions by the Borrower and its Subsidiaries during such period (other than sales of inventory in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income,

(iii) the amount of Capital Expenditures made in cash during such period pursuant to Section 7.16, except to the extent that such Capital Expenditures were financed with the proceeds of any issuance or sale of Equity Interests of Holdings, with the proceeds of any Indebtedness of Holdings, the Borrower or any Subsidiary, or, to the extent not otherwise included in Consolidated Net Income, with the proceeds of any Disposition of property of or any Casualty Event with respect to property of Holdings, the Borrower or any Subsidiary,

(iv) the aggregate amount of all principal payments or prepayments of Indebtedness of the Borrower and its Subsidiaries (including (A) the principal component of payments in respect of Capital Lease Obligations, (B) the amount of any voluntary prepayment of Loans pursuant to Section 2.03(a) and any voluntary prepayment of First Lien Term Loans, (C) the amount of any mandatory prepayment of Loans pursuant to Section 2.03(b)(ii) and any mandatory prepayment of First Lien Term Loans required as a result of any Disposition, in each case to the extent required due to a Disposition that resulted in an increase to Consolidated Net Income and not in excess of the amount of such increase and (D) the amount of any repayment of Loans pursuant to Section 2.04 and any regularly scheduled principal payments of the First Lien Term Loans, but excluding all other prepayments of the Loans and the First Lien Term Loans) made during such period (other than in respect of any revolving credit facility to the extent there is not an equivalent permanent reduction in commitments thereunder), except to the extent that such payments or prepayments were financed with the proceeds of any issuance or sale of Equity Interests of Holdings, with the proceeds of any other Indebtedness of Holdings, the Borrower or any Subsidiary, or, to the extent not otherwise included in Consolidated Net Income, with the proceeds of any Disposition of property of or any Casualty Event with respect to property of Holdings, the Borrower or any Subsidiary,

(v) increases in Consolidated Working Capital for such period,

(vi) the amount of Permitted Acquisitions made during such period pursuant to Section 7.02, except to the extent that such Permitted Acquisitions were financed with the proceeds of any issuance or sale of Equity Interests of Holdings, with the proceeds of any Indebtedness of Holdings to the extent such proceeds were not applied to reduce the Obligations of the Borrower or the Subsidiaries, or, to the extent not otherwise included

in Consolidated Net Income, with the proceeds of any Disposition of property of or any Casualty Event with respect to property of Holdings, the Borrower or the Subsidiaries to the extent such proceeds were not applied to reduce the Obligations, and

(vii) cash expenditures in respect of Swap Contracts during such fiscal year to the extent not deducted in arriving at such Consolidated Net Income.

“Exchange Act” means the Securities Exchange Act of 1934.

“Exchange Rate” means on any day with respect to any currency other than Dollars, the rate at which such currency may be exchanged into Dollars, as set forth at approximately 11:00 a.m. (London time) on such day on the Reuters World Currency Page for such currency; in the event that such rate does not appear on any Reuters World Currency Page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower, or, in the absence of such agreement, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 10:00 a.m. (New York City time) on such date for the purchase of Dollars for delivery two Business Days later.

“Excluded Taxes” has the meaning specified in Section 3.01(f).

“Facility” means the term loan facility made available to the Borrower pursuant to this Agreement.

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank on the Business Day next succeeding such day; *provided* that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to JPMorgan Chase Bank on such day on such transactions as determined by the Administrative Agent.

“First Lien Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent under the First Lien Credit Agreement, together with any of its successors.

“First Lien Cap Amount” means \$325,000,000.

“First Lien Cash Management Obligations” means the “Cash Management Obligations” as defined in the First Lien Credit Agreement.

“First Lien Credit Agreement” means the Credit Agreement, dated as of [____], among the Borrower, Holdings, the German Borrower party thereto, the lenders party thereto and the First Lien Agent, as amended, supplemented, waived or otherwise modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

“First Lien Obligations” means the “First Priority Obligations” as defined in the Intercreditor Agreement.

“First Lien Secured Hedge Agreements” means the “Secured Hedge Agreements” as defined in the First Lien Credit Agreement.

“First Lien Term Loan Documents” means the “Loan Documents” as defined in the First Lien Credit Agreement.

“First Lien Term Loans” means the term loans converted or continued, as the case may be, pursuant to the First Lien Credit Agreement.

“First Priority Obligations Payment Date” has the meaning specified in the Intercreditor Agreement.

“Foreign Benefit Arrangement” means any employee benefit arrangement mandated by non-U.S. law that is maintained or contributed to by any Loan Party or any ERISA Affiliate.

“Foreign Jurisdiction Deposit” means a deposit or Guarantee incurred in the ordinary course of business and required by any Governmental Authority in a foreign jurisdiction as a condition of doing business in such jurisdiction.

“Foreign Lender” has the meaning specified in Section 10.15.

“Foreign Plan” means each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to U.S. law and is maintained or contributed to by any Loan Party or any ERISA Affiliate.

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

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

“GAAP” means generally accepted accounting principles in the United States of America, as in effect from time to time; *provided*, that for purposes of Section 7.10, GAAP shall be determined on the basis of such principles in effect on the date hereof and consistent with those used in the preparation of the most recent audited financial statements of the Borrower prior to the date hereof.

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

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

“Group Member” means Holdings, the Borrower and the Subsidiaries.

“Guarantee” means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such

Indebtedness or other monetary obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or monetary other obligation of the payment or performance of such Indebtedness or other monetary obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or monetary other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); *provided* that the term “Guarantee” shall not include endorsements for collection or deposit, in either case in the ordinary course of business. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“**Guarantee and Security Agreement**” means, collectively, the Second Lien Guarantee and Security Agreement executed by Holdings, the Borrower and each Guarantor, substantially in the form of Exhibit E, together with each other security agreement supplement executed and delivered pursuant to Section 6.11.

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

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

“**Hazardous Materials**” means all explosive or radioactive substances or wastes and all hazardous or toxic substances or wastes or pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to or that could give rise to any liability under any Environmental Law.

“**Hedge Bank**” means any Person that is a “Lender” or an “Affiliate” of a “Lender” under the First Lien Credit Agreement or a Lender or an Affiliate of a Lender hereunder at the time it enters into a Secured Hedge Agreement, in its capacity as a party thereto; provided that, prior to the First Priority Obligations Payment Date, any “Hedge Bank” under the First Lien Credit Agreement shall not be a Hedge Bank hereunder.

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

“**Holdings Operating Expenses**” means operating costs and expenses incurred by Holdings, which will include, in any event, without limitation, costs and expenses incurred in connection with (in each case to the extent not otherwise prohibited by the Loan Documents and in each case other than interest or dividend payments or expenses related to activities not permitted to be undertaken by Holdings pursuant to Section 7.15) (i) the maintenance of its existence and the ownership of an investment in the Borrower or the Subsidiaries of the Borrower, and the exercise of rights and performance of obligations in connection therewith, (ii) the entry into, and exercise of rights and performance of obligations in respect of (A) contracts and agreements with or for the benefit of officers,

directors and employees of Holdings, the Borrower or any Subsidiary relating to their employment or directorships, (B) insurance policies and related contracts and agreements, (C) any equity subscription agreements, registration rights agreements, voting and other stockholder agreements, engagement letters, underwriting agreements and other agreements in respect of Equity Interests of Holdings or any offering, issuance or sale thereof, and (D) the Loan Documents, (iii) the offering, issuance and sale of Equity Interests of Holdings, (iv) the filing of registration statements, and compliance with applicable reporting and other obligations, under federal, state or other securities laws, (v) the performance of obligations under and compliance by Holdings with its certificate of incorporation and by-laws or any applicable law, ordinance, regulation rule, order, judgment, decree or permit, including, without limitation, as a result of or in connection with the activities of the Borrower or the Subsidiaries of the Borrower, (vi) payment of taxes for the benefit of or relating to Holdings, the Borrower and its Subsidiaries and (vii) other activities incidental or related to the foregoing.

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) the maximum amount (after giving effect to any prior drawings or reductions which may have been reimbursed) of all letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;
- (c) net obligations of such Person under any Swap Contract;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable in the ordinary course of business, (ii) any earn-out obligation until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP, (iii) deferred or equity compensation arrangements payable to directors, officers or employees and (iv) any such obligation to pay royalties or commissions to authors);
- (e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (f) all Attributable Indebtedness;
- (g) all obligations of such Person to purchase, redeem, retire or otherwise acquire for value any Disqualified Equity Interests; and
- (h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall (A) include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person’s liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included as Indebtedness on a consolidated balance sheet of the Borrower in accordance with GAAP and (B) in the case of Holdings and its Subsidiaries, exclude (i) customer deposits and advances and interest

payable thereon in the ordinary course of business consistent with past practice and in accordance with customary trade terms and other obligations incurred in the ordinary course of business consistent with past practice through credit on an open account basis customarily extended to such Person, (ii) statutory or other legal requirements to make deposits in connection with sweepstakes or similar contests, or surety bonds or letters of credit posted pursuant to such requirements and (iii) obligations under overdraft arrangements with banks outside the United States incurred in the ordinary course of business consistent with past practice to cover working capital needs. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (i) the aggregate unpaid amount of such Indebtedness and (ii) the fair market value of the property encumbered thereby as determined by such Person in good faith.

“Indemnified Liabilities” has the meaning specified in Section 10.05.

“Indemnitees” has the meaning specified in Section 10.05.

“Information” has the meaning specified in Section 10.08.

“Intellectual Property” has the meaning set forth in the Guarantee and Security Agreement.

“Intercreditor Agreement” means the Intercreditor Agreement to be executed and delivered by the Administrative Agent, the First Lien Agent and the Loan Parties, substantially in the form of Exhibit I, as amended, modified and supplemented from time to time.

“Interest Election” means a Cash Election or PIK Election, as applicable.

“Interest Election Notice” has the meaning specified in Section 2.05(b).

“Interest Payment Date” means, (a) as to any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date applicable to such Loan, (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date applicable to such Loan and (c) as to any Loan, the date of any repayment or prepayment made in respect thereof.

“Interest Period” means (a), as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date three months thereafter; *provided* that:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(iii) no Interest Period shall extend beyond the Maturity Date applicable to such Eurodollar Rate Loan; and

(b) for purposes of Section 2.05(b), as to each Base Rate Loan, initially, the period commencing on the date such Base Rate Loan is disbursed or converted to a Base Rate Loan and ending on the immediately succeeding Interest Payment Date and, thereafter, the period commencing on any Interest Payment Date and ending on the immediately succeeding Interest Payment 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 Equity Interests or debt or other securities of another Person or (b) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. 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.

“J.H. Cohn” means J.H. Cohn, LLP, and any successor thereto.

“JPMorgan Chase Bank” means JPMorgan Chase Bank, N.A., and any successor thereto.

“Junior Financing” has the meaning specified in Section 7.14.

“Junior Financing Documentation” means any documentation governing any Junior Financing.

“Laws” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities.

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

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“Lien” means any mortgage, pledge, hypothecation, collateral assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or preferential arrangement intended to create a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capital Lease Obligation having substantially the same economic effect as any of the foregoing). For the avoidance of doubt, “Lien” shall not include any license or sublicense of Intellectual Property, provided that such license or sublicense is not intended to create a security interest of any kind or nature whatsoever.

“Liquidity” means, on any date of determination, the sum, without duplication, of (i) the cash and Cash Equivalents which are not subject to any Liens (other than Liens permitted pursuant to Section 7.01(a), (b), (c), (d), (e), (f), (k), (l), (u) or (bb))) held by the Borrower and its Subsidiaries on such date plus (ii) the aggregate amount which is available to be drawn under any loan agreements or other lines of credit of the Borrower and its Subsidiaries on such date (for the avoidance of doubt, after

giving effect to any limitation on borrowing thereunder, including but not limited to the absence of default or other non-compliance with covenants).

“Loans” has the meaning specified in Section 2.01 and shall include any interest which is paid-in-kind and added to the principal amount of the Loans in accordance with Section 2.05(b).

“Loan Amount”: as to any Lender, the principal amount of Loans issued to such Lender on the Closing Date set forth under the heading “Loan Amount” opposite such Lender’s name on Schedule 2.01. The original aggregate Loan Amount of the Lenders is \$300,000,000.

“Loan Documents” means, collectively, (i) this Agreement, (ii) the Notes, (iii) the Collateral Documents and (iv) the Intercreditor Agreement.

“Loan Parties” means, collectively, the Borrower and each Guarantor.

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

“Material Adverse Effect” means any event, development or circumstance that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on (a) the business, property, operations or financial condition of Holdings and its Subsidiaries, taken as a whole, in each case, other than such effects attributable to the commencement of the Cases or the existence of prepetition claims and of defaults under such claims to the extent stayed by virtue of the commencement of the Cases or (b) the validity or enforceability of this Agreement or any of the other Loan Documents or the rights and remedies of the Administrative Agent and the Lenders hereunder or thereunder.

“Material Real Property” means, on any date, any real property owned by any Loan Party with a fair market value as of such date in excess of \$2,500,000.

“Maturity Date” means March 31, 2014.

“Maximum Rate” has the meaning specified in Section 10.10.

“Moelis” means Moelis & Company LLC, and any successor thereto.

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

“Mortgage” means, collectively, the deeds of trust, trust deeds, hypothecs and mortgages made by the Loan Parties in favor or for the benefit of the Administrative Agent on behalf of the Lenders substantially in the form of Exhibit G (with such changes as may be customary to account for local Law matters or as otherwise may be reasonably satisfactory to the Administrative Agent), and any other mortgages executed and delivered pursuant to Section 6.11.

“Mortgaged Properties” has the meaning specified in paragraph (g) of the definition of Collateral and Guarantee Requirement.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Loan Party or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Net Cash Proceeds” means:

(a) with respect to the Disposition of any asset by Holdings, the Borrower or any Subsidiary or any Casualty Event, an amount equal to (i) the sum of cash and Cash Equivalents received in connection with such Disposition or Casualty Event (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and, with respect to any Casualty Event, any insurance proceeds or condemnation awards in respect of such Casualty Event actually received by or paid to or for the account of Holdings, the Borrower or any Subsidiary) less (ii) the sum of (A) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness that is secured by a Lien expressly permitted hereunder (and not junior to the Liens securing the Obligations) on the asset subject to such Disposition or Casualty Event and that is required to be repaid (and is repaid) in connection with such Disposition or Casualty Event (other than Indebtedness under the Loan Documents and other than to the extent the holders of such Indebtedness are required to turnover any such proceeds to any or all of the Lenders), (B) the out-of-pocket expenses (including attorneys’ fees, investment banking fees, accounting fees and other professional and transactional fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary commissions and fees) actually incurred by Holdings, the Borrower or such Subsidiary in connection with such Disposition or Casualty Event, (C) taxes paid or reasonably estimated to be actually payable in connection therewith, (D) any reserve for adjustment in accordance with GAAP in respect of (x) the sale price of such asset or assets and (y) any liabilities associated with such asset or assets and retained by Holdings, the Borrower or any Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, and (E) the Borrower’s reasonable estimate of payments required to be made with respect to unassumed liabilities relating to the assets involved within one year of such Disposition or Casualty Event and it being understood that “Net Cash Proceeds” shall include (i) any cash or Cash Equivalents received upon the Disposition of any non-cash consideration received by Holdings, the Borrower or any Subsidiary in any such Disposition, (ii) an amount equal to any reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in clause (C) or (D) above at the time of such reversal and (iii) an amount equal to any estimated liabilities described in clause (E) above that have not been satisfied in cash within three hundred and sixty-five (365) days after such Disposition or Casualty Event; *provided* that notwithstanding anything to the contrary, (x) no proceeds realized in a single Disposition or series of related Dispositions shall constitute Net Cash Proceeds unless such Net Cash Proceeds shall exceed \$1,000,000 and (y) no such proceeds shall constitute Net Cash Proceeds under this clause (a) in any fiscal year until the aggregate amount of all such Net Cash Proceeds in such fiscal year shall exceed \$5,000,000 (and thereafter only net cash proceeds in excess of such amount shall constitute Net Cash Proceeds under this clause (a)); and

(b) with respect to the incurrence or issuance of any Indebtedness or Equity Interests by Holdings, the Borrower or any Subsidiary, an amount equal to (i) the sum of the cash received in connection with such incurrence or issuance less (ii) the attorneys’ fees, investment banking fees, accountants’ fees, underwriting or other discounts, commissions, costs and other out-of-pocket fees, transfer and similar taxes and other customary out-of-pocket expenses actually incurred by Holdings, the Borrower or such Subsidiary in connection with such incurrence or issuance.

“Non-Cash Charges” has the meaning specified in the definition of the term “Consolidated EBITDA”.

“Non-Consenting Lenders” has the meaning specified in Section 3.07(c).

“Note” means a promissory note of the Borrower payable to any Lender, in substantially the form of Exhibit B hereto, evidencing the aggregate Indebtedness of the Borrower to such Lender resulting from the Loans of such Lender.

“Not Otherwise Applied” means, with reference to any amount of Net Cash Proceeds of any transaction or event or of Excess Cash Flow, that such amount (a) was not required to be applied to prepay the “Loans” under the First Lien Credit Agreement or the Loans pursuant to Section 2.05(b), and (b) was not previously applied in determining the permissibility of a transaction under the “Loan Documents” under the First Lien Credit Agreement or under the Loan Documents hereunder where such permissibility was contingent on receipt of such amount or utilization of such amount for a specified purpose. The Borrower shall promptly notify the Administrative Agent of any application of such amount as contemplated by clause (b) above.

“NPL” means the National Priorities List under CERCLA.

“Obligations” means all (a) monetary obligations of any Loan Party and its Subsidiaries arising under any Loan Document, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or Subsidiary of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding, (b) monetary obligations of any Loan Party arising under any Secured Hedge Agreement and (c) monetary Cash Management Obligations. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and of their Subsidiaries to the extent they have obligations under the Loan Documents) include (x) the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities, and other amounts payable by any Loan Party or its Subsidiaries under any Loan Document and (y) the obligation of any Loan Party or any of its Subsidiaries to reimburse any amount in respect of any of the foregoing that any Lender, in its sole discretion, may elect to pay or advance on behalf of such Loan Party or such Subsidiary.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Other Taxes” has the meaning specified in Section 3.01(b).

“Outstanding Amount” means, with respect to the Loans, on any date, the aggregate principal amount thereof outstanding after giving effect to any deemed making and prepayments or repayments of Loans occurring on such date.

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

“Participating Member State” means each state so described in any EMU Legislation.

“Patriot Act” means the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Plan” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA and is sponsored or maintained by any Loan Party or any ERISA Affiliate or to which any Loan Party or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five (5) plan years.

“Permitted Acquisition” has the meaning specified in Section 7.02(i).

“Permitted Equity Issuance” means any sale or issuance of any Qualified Equity Interests of Holdings to the extent not prohibited hereunder or any capital contribution made to Holdings in respect of its Qualified Equity Interests.

“Permitted Holdings Distributions” means payments, dividends or distributions by the Borrower to Holdings in order to pay Holdings Operating Expenses.

“Permitted Refinancing” means, with respect to any Person, any modification, refinancing, refunding, renewal or extension of any Indebtedness of such Person; *provided that* (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed or extended, except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees and expenses reasonably incurred, in connection with such modification, refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder, (b) such modification, refinancing, refunding, renewal or extension has a final maturity date equal to or later than the final maturity date of the Indebtedness so modified, refinanced, refunded, renewed or extended, (c) such modification, refinancing, refunding, renewal or extension has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, renewed or extended, (d) at the time thereof, no Default or Event of Default shall have occurred and be continuing, (e) to the extent such Indebtedness being modified, refinanced, refunded, renewed or extended is subordinated in right of payment to the Obligations or subordinated in respect of any Collateral, such modification, refinancing, refunding, renewal or extension is subordinated in right of payment to the Obligations and/or subordinated in respect of such Collateral, as the case may be, on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed or extended and (e) the terms and conditions (including, if applicable, as to collateral but excluding as to subordination, interest rate or other pricing terms and redemption or prepayment premium) of any such modified, refinanced, refunded, renewed or extended Indebtedness, taken as a whole, are not materially less favorable to the Lenders than the terms and conditions of the Indebtedness being modified, refinanced, refunded, renewed or extended.

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

“Petition Date” has the meaning specified in the preliminary statements to this Agreement.

“PIK Election” has the meaning specified in Section 2.05(b).

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) (other than a Multiemployer Plan, Foreign Plan or Foreign Benefit Arrangement) established by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Section 302 or Title IV of ERISA, any ERISA Affiliate.

“Pledged Debt” has the meaning specified in the Guarantee and Security Agreement.

“Pledged Equity” has the meaning specified in the Guarantee and Security Agreement.

“Prepetition Credit Agreement” means the Credit Agreement, dated as of March 2, 2007, among Doctor Acquisition Co., RDA Holding Co., the Borrower, the overseas borrowers party thereto, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent, as amended, supplemented, waived or otherwise modified from time to time prior to the effectiveness of the First Lien Credit Agreement.

“Prepetition Credit Agreement Claims” has the meaning specified in the Reorganization Plan.

“Prepetition Euro Term Loans” means the Euro Term Loans (as defined in the Prepetition Credit Agreement as in effect on the date hereof).

“Pro Forma Balance Sheet” has the meaning set forth in Section 5.05(a)(ii).

“Pro Rata Share” means, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount equal to the outstanding Loans of such Lender and the denominator of which is the amount equal to the aggregate outstanding Loans at such time.

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

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

“Reorganization Plan” has the meaning specified in the preliminary statements to this Agreement.

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

“Required Lenders” means, as of any date of determination, Lenders having more than 50% of the sum of the aggregate Outstanding Amount of all Loans.

“Requirement of Law” means, as to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

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

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of Holdings, the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to Holdings or the Borrower’s stockholders, partners or members (or the equivalent Persons thereof).

“Restructuring Support Agreement” means the Restructuring Support Agreement, dated as of August 17, 2009, among the Debtors and the Consenting Lenders and Consenting Shareholders specified therein, as amended, supplemented, waived or otherwise modified from time to time.

“Rollover Amount” has the meaning set forth in Section 7.16(b).

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto.

“Same Day Funds” means immediately available funds.

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

“Secured Hedge Agreement” means any Swap Contract permitted under Article VII that is entered into by and between the Borrower or any Subsidiary and (i) any “Hedge Bank” under the First Lien Credit Agreement or (ii) any Hedge Bank hereunder, in each case at the time such Secured Hedge Agreement is entered into. Notwithstanding the foregoing, prior to the First Priority Obligations Payment Date, any Swap Contract that is a “Secured Hedge Agreement” under the First Lien Credit Agreement shall not be a Secured Hedge Agreement hereunder.

“Secured Parties” means, collectively, the Administrative Agent, the other Agents, the Lenders, the Hedge Banks, each holder of Cash Management Obligations, any Affiliate of a Lender to which Obligations are owed, the Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.01(b).

“Securities Act” means the Securities Act of 1933.

“Security Agreement Supplement” has the meaning specified in the Guarantee and Security Agreement.

“Solvent” and **“Solvency”** mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable 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, (c) such Person does not intend to, and

does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they become absolute and matured and (d) such Person is not engaged in any business, as conducted on such date and as proposed to be conducted following such date, for which such Person's property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the 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.

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

“**Specified Lenders**” means, collectively, the Lenders from time to time comprising the steering committee designated by JPMorgan Chase Bank in connection with this Agreement and the First Lien Credit Agreement and the ongoing administration of the Cases; *provided*, that there shall at no time be more than ten Lenders on the steering committee (counting all affiliated Lenders as one for purposes of this proviso).

“**Statutory Reserve Rate**” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the relevant Lender is subject for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurodollar Rate Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“**Sterling**” means the lawful currency of the United Kingdom.

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

“**Supplemental Administrative Agent**” has the meaning specified in Section 9.13 and “Supplemental Administrative Agents” shall have the corresponding meaning.

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

master agreement (any such master agreement, together with any related schedules, a “**Master Agreement**”), including any such obligations or liabilities under any Master Agreement.

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

“**Taxes**” has the meaning specified in Section 3.01(a).

“**Test Period**” means, for any determination under this Agreement, the period of four consecutive fiscal quarters of the Borrower then last ended.

“**Threshold Amount**” means \$18,000,000.

“**Total Leverage Ratio**” means, with respect to any Test Period, the ratio as of the last day of such Test Period of (a) Consolidated Total Debt as of the last day of such Test Period to (b) Consolidated EBITDA for such Test Period.

“**Type**” means, with respect to a Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

“**Unaudited Financial Statements**” means the unaudited consolidated balance sheets and related statements of income, stockholders’ equity and cash flows of the Borrower and its consolidated Subsidiaries for each subsequent fiscal quarter ended after the fiscal year ended June 30, 2009, in each case for which and to the extent such financial statements are available prior to the Closing Date.

“**Uniform Commercial Code**” means the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

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

“**Weighted Average Life to Maturity**” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (ii) the then outstanding principal amount of such Indebtedness.

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

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

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

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

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

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

(iv) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(c) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

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

Section 1.03 Accounting Terms. (a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein.

(b) Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of Holdings, the Borrower or any of their respective Subsidiaries at “fair value”, as defined therein.

Section 1.04 Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under this Agreement) shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements,

extensions, supplements and other modifications are permitted by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

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

Section 1.07 Timing of Payment of Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day.

Section 1.08 Currency Equivalents Generally. Any amount specified in this Agreement (other than in Articles II, IX, and X) or any of the other Loan Documents to be in Dollars shall also include the equivalent of such amount in any currency other than Dollars, such equivalent amount to be determined at the rate of exchange quoted by the Reuters World Currency Page for the applicable currency at 11:00 a.m. (London time) on such day (or, in the event such rate does not appear on any Reuters World Currency Page, by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower, or, in the absence of such agreement, such rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 10:00 a.m. (New York City time) on such date for the purchase of Dollars for delivery two Business Days later). Notwithstanding the foregoing, for purposes of determining compliance with Section 7.01, 7.02 and Section 7.03 with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Indebtedness or Investment is incurred; *provided* that, for the avoidance of doubt, the foregoing provisions of this Section 1.08 shall otherwise apply to such Sections, including with respect to determining whether any Indebtedness or Investment may be incurred at any time under such Sections.

Section 1.09 Change of Currency. Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify with the Borrower's consent to appropriately reflect a change in currency of any country and any relevant market conventions or practices relating to such change in currency.

ARTICLE II

THE LOANS

Section 2.01 The Loans. Subject to the terms and conditions hereof and to give effect to the Reorganization Plan and provide for the repayment, in part, of the Prepetition Credit Agreement Claims, each Lender listed on Schedule 2.01 shall be deemed, on the Closing Date, to have made term loans (the "**Loans**") to the Borrower hereunder in an amount equal to such Lender's Loan Amount. For the avoidance of doubt, the Loans deemed made pursuant to the preceding sentence shall be made without any actual funding and shall initially be Eurodollar Rate Loans. The amount of Loans of each Lender on the Closing Date shall be equal to the amount set forth on Schedule 2.01, which amount shall be conclusive absent manifest error. After the Closing Date, the Loans may from time to time be Eurodollar Rate Loans or Base Rate Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Section 2.02. Amounts repaid or prepaid on account of the Loans may not be reborrowed.

Section 2.02 Conversions and Continuations of Loans. (a) Each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower's notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than (i) 12:30 p.m. (New York time) three (3) Business Days prior to the requested date of any continuation of Eurodollar Rate Loans or any conversion of Base Rate Loans to Eurodollar Rate Loans, and (ii) 12:30 p.m. (New York time) one (1) Business Day prior to the requested date of any conversion of Eurodollar Rate Loans to Base Rate Loans. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Conversion or Continuation Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof. Each conversion to Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Each Conversion or Continuation Notice (whether telephonic or written) shall specify (i) whether the Borrower is requesting a conversion of Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be converted or continued, (iv) the Type of Loans to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to give a timely notice requesting a conversion or continuation, then the Loans shall be continued as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans.

(b) Following receipt of a Conversion or Continuation Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation described in Section 2.02(a).

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan unless the Borrower pays the amount due, if any, under Section 3.05 in connection therewith.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. The determination of the Eurodollar Rate by the Administrative Agent shall be conclusive in the absence of manifest error. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in JPMorgan Chase Bank prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect.

(f) The failure of any Lender to make the Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Loan to be made by such other Lender on the date of any Borrowing.

Section 2.03 Prepayments. (a) *Optional.* The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty; provided that (1) such notice must be received by the Administrative Agent

not later than 12:30 p.m. (New York time) (A) three (3) Business Days prior to any date of prepayment of Eurodollar Rate Loans and (B) on the date of prepayment of Base Rate Loans; (2) any prepayment of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof; and (3) any prepayment of Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Pro Rata Share of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 3.05. Each prepayment of the Loans pursuant to this Section 2.03(a) shall be paid to the Lenders in accordance with their respective Pro Rata Shares.

(b) *Mandatory.* (i) Within ten (10) days after the earlier of (A) the date by which financial statements are required to be delivered pursuant to Section 6.01(a) and (B) the date such financial statements are actually delivered, the Borrower shall cause to be prepaid an aggregate amount of Loans in an amount equal to the ECF Percentage of Excess Cash Flow, if any, for the fiscal year covered by such financial statements (commencing with the 2010 fiscal year).

(ii) (A) If (x) Holdings, the Borrower or any Subsidiary Disposes of any property or assets (other than any Disposition of any property or assets permitted by Section 7.05(a), (b), (c), (d), (e), (f), (g), (h) or (m)) or (y) any Casualty Event occurs, which in the aggregate results in the realization or receipt by Holdings, the Borrower or such Subsidiary of Net Cash Proceeds, the Borrower shall cause to be prepaid on or prior to the date which is five (5) Business Days after the date of the realization or receipt of such Net Cash Proceeds, Loans in an amount equal to 100% of all Net Cash Proceeds received; *provided* that no such prepayment shall be required pursuant to this Section 2.03(b)(ii)(A) with respect to such portion of such Net Cash Proceeds that the Borrower shall have, on or prior to such date, given written notice to the Administrative Agent of its intent to reinvest in accordance with Section 2.03(b)(ii)(B);

(B) With respect to any Net Cash Proceeds realized or received with respect to any Disposition that is subject to the prepayment requirements in Section 2.03(b)(ii)(A) or any Casualty Event, at the option of the Borrower, the Borrower may reinvest (x) all or any portion of such Net Cash Proceeds received on account of Dispositions or (y) all or any portion of such Net Cash Proceeds received on account of Casualty Events to acquire or repair assets useful in the Borrower's or a Subsidiary's business (subject to the limitations of this Agreement) within 270 days following receipt of such Net Cash Proceeds or within 360 days following receipt of such Net Cash Proceeds if and to the extent the amount of such applicable Net Cash Proceeds is contractually committed to be reinvested in the Borrower's or a Subsidiary's business as of the 270th day following receipt thereof; *provided* that an amount equal to any such Net Cash Proceeds shall be applied within five (5) Business Days after such Net Cash Proceeds cannot be so reinvested or the Borrower reasonably determines that such Net Cash Proceeds are no longer intended to be so reinvested to the prepayment of the Loans as set forth in this Section 2.03.

(iii) If Holdings, the Borrower or any Subsidiary incurs or issues any Indebtedness or Equity Interests (other than Indebtedness expressly permitted to be incurred or issued pursuant to Section 7.03 and Equity Interests issued to Holdings, the Borrower or any Subsidiary in accordance with Section 7.02 (in each case, without prejudice to the restrictions therein)), the Borrower shall cause to be prepaid Loans in an amount equal to 100% of all Net Cash Proceeds received therefrom, in the case of Indebtedness, and 75% of all Net Cash Proceeds received therefrom, in the case of Equity Interests, in

each case on or prior to the date which is five (5) Business Days after the receipt of such Net Cash Proceeds.

(iv) The Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Loans required to be made pursuant to this Section 2.03(b) at least three (3) Business Days prior to the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment. The Administrative Agent will promptly notify each Lender of the contents of the Borrower's prepayment notice and of such Lender's Pro Rata Share of the prepayment.

(v) Notwithstanding anything to the contrary in this Agreement, the amount of any mandatory prepayment of Loans required pursuant to this Section 2.03(b) shall be reduced by the aggregate amount on a Dollar-for-Dollar basis by which the First Lien Term Loans are required to be prepaid in accordance with the First Lien Credit Agreement.

(c) Each prepayment of Loans pursuant to this Section 2.03 shall be paid to the Lenders in accordance with their respective Pro Rata Shares.

(d) All prepayments under this Section 2.03 shall be made together with, in the case of any such prepayment of a Eurodollar Rate Loan on a date other than the last day of an Interest Period therefor, any amounts owing in respect of such Eurodollar Rate Loan pursuant to Section 3.05.

Section 2.04 Repayment of Loans. The Loan of each Lender shall mature in a single installment on the Maturity Date.

Section 2.05 Interest. (a) Subject to the provisions of Section 2.05(c), (i) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period plus the Applicable Rate; and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate.

(b) Notwithstanding anything to the contrary contained in this Section 2.05, upon the occurrence and during the continuance of a Consolidated EBITDA Event, a portion of the Applicable Rate on the Loans equal to 6.5% per annum for the succeeding Interest Period shall be paid, at the Borrower's option, in cash (a "**Cash Election**") or by increasing the principal amount of the outstanding Loans (a "**PIK Election**"), in each case in arrears on the applicable Interest Payment Date. The Borrower shall be permitted to make a Cash and/or a PIK Election with respect to all or any portion of the Outstanding Amount of the Loans not less than \$50,000,000. The Borrower shall make an Interest Election with respect to each Interest Period by providing prior irrevocable notice of such election (the "**Interest Election Notice**") by no later than 11:00 A.M., New York City time, on the tenth day preceding the beginning of such Interest Period. Each Interest Election Notice shall include information to the following effect: (1) the relevant Interest Payment Date, (2) whether the Borrower is making a Cash Election or a PIK Election and (3) if the Borrower makes a PIK Election, the increase in the principal amount of the Loans to be effective upon the relevant Interest Payment Date as a result of such payment and the principal amount of the Loans outstanding as of such Interest Payment Date after giving effect to such payment. If the Borrower shall fail to give timely notice as described above in this paragraph, the Borrower shall be deemed to have elected to continue with the last Interest Election made for the previous Interest Period.

(c) If any Event of Default shall have occurred and be continuing, all outstanding Loans and other Obligations under the Loan Documents (whether or not overdue at such time) shall bear interest

at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(d) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Notwithstanding the foregoing, interest accruing pursuant to Section 2.05(c) shall be payable from time to time on demand. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

Section 2.06 Fees. The Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

Section 2.07 Computation of Interest and Fees. All computations of interest for Base Rate Loans when the Base Rate is determined by JPMorgan Chase Bank's "prime rate" shall be made on the basis of a year of three hundred and sixty-five (365) or three hundred and sixty-six (366) days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a three hundred and sixty (360) day year and actual days elapsed. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.09(a), bear interest for one (1) day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error. The Administrative Agent shall, upon the reasonable request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.05(a).

Section 2.08 Evidence of Indebtedness. (a) The Loans made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be *prima facie* evidence 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 Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.08(a), and by each Lender in its account or accounts pursuant to Section 2.08(a), shall be *prima facie* evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; *provided* that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is

incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

Section 2.09 Payments Generally. (a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in Same Day Funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. (New York time) shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

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

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

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

(ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in Same Day Funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent (the "**Compensation Period**") at a rate per annum equal to the Federal Funds Rate from time to time in effect. When such Lender makes payment to the Administrative Agent (together with all accrued interest thereon), then such payment amount (excluding the amount of any interest which may have accrued and been paid in respect of such late payment) shall constitute such Lender's Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent may make a demand therefor upon the Borrower, and the Borrower shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights which the Administrative Agent or the Borrower may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.09(c) shall be conclusive, absent manifest error.

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

(e) The obligations of the Lenders hereunder to make Loans are several and not joint. The failure of any Lender to make any Loan on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan.

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

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 8.03. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but at the direction of Required Lenders shall, elect to distribute such funds to each of the Lenders in accordance with such Lender's Pro Rata Share of the Outstanding Amount of all Loans outstanding at such time, in repayment or prepayment of such of the outstanding Loans or other Obligations then owing to such Lender.

Section 2.10 Sharing of Payments. If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Loans made by it any payment (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans pro rata with each of them; provided that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 10.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.10 and will in each case notify the Lenders following any such purchases or repayments. Each Lender

that purchases a participation pursuant to this Section 2.10 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

Section 2.11 Intercreditor Agreement. Each Lender hereby authorizes and directs the Administrative Agent to enter into the Intercreditor Agreement on its behalf and hereby approves and agrees to be bound by the terms of the Intercreditor Agreement (including the subordination of its Liens on the Collateral to the extent provided in the Intercreditor Agreement). Notwithstanding anything to the contrary herein, in the case of any inconsistency between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall govern. The Lenders acknowledge that the First Lien Term Loans, the First Lien Secured Hedge Agreements, the First Lien Cash Management Obligations and related obligations are secured by the Collateral, subject to the Intercreditor Agreement, and that the First Lien Obligations may be increased from time to time including by amendment.

Section 2.12 No Requirement of Lender Signatures. Each Lender listed on Schedule 2.01 shall be a party hereto in accordance with the Reorganization Plan and, pursuant to the Reorganization Plan, is bound hereby without the requirement of any Lender to execute a signature page hereto.

ARTICLE III

TAXES, INCREASED COSTS PROTECTION AND ILLEGALITY

Section 3.01 Taxes. (a) Except as provided in this Section 3.01, any and all payments by the Borrower to or for the account of any Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and all liabilities (including additions to tax, penalties and interest) with respect thereto, excluding in the case of each Agent and each Lender, taxes imposed on or measured by its net income or overall gross income (including branch profits), and franchise (and similar) taxes imposed on it in lieu of net income taxes, by the jurisdiction (or any political subdivision thereof) under the Laws of which such Agent or such Lender, as the case may be, is organized, managed or controlled or maintains a Lending Office or conducts business in (except to the extent the business is considered to be conducted in such jurisdiction solely as a result of such Agent or such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, any Loan Document) and all liabilities (including additions to tax, penalties and interest) with respect thereto. All non-excluded taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and liabilities described in the immediately preceding sentence are hereinafter referred to as “**Taxes**”. If the Borrower shall be required by any Laws to deduct any Taxes or Other Taxes from or in respect of any sum payable under any Loan Document to any Agent or any Lender, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01), each of such Agent and such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions, (iii) the Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Laws, and (iv) within thirty (30) days after the date of such payment (or, if receipts or evidence are not available within thirty (30) days, as soon as possible thereafter), the Borrower shall furnish to such Agent or Lender (as the case may be) the original or a certified copy of a receipt evidencing payment thereof to the extent such a receipt is issued therefor. If the Borrower fails to pay any Taxes or Other Taxes when due to the appropriate taxing authority or fails to remit to any Agent or any Lender the required receipts or other required documentary evidence, the Borrower shall indemnify such Agent and such Lender for any incremental taxes, interest or penalties that may become payable by such Agent or such Lender arising

out of such failure. Notwithstanding anything to the contrary in this Section 3.01(a), the Borrower shall not be required to increase the sum payable under any Loan Document, or to indemnify any Lender or Agent, with respect to Taxes that (i) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower), are United States withholding taxes imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new lending office), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such withholding taxes or (ii) are withholding taxes that are excluded pursuant to Section 10.15(d).

(b) In addition, the Borrower agrees to pay any and all present or future stamp, court or documentary taxes and any other excise, property, intangible or mortgage recording taxes or charges or similar levies which arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document (hereinafter referred to as “**Other Taxes**”).

(c) The Borrower agrees to indemnify each Agent and each Lender for (i) the full amount of Taxes and Other Taxes (including any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section 3.01) paid by such Agent and such Lender and (ii) any liability (including additions to tax, penalties, interest and expenses) arising therefrom or with respect thereto, in each case whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided such Agent or Lender, as the case may be, provides the Borrower with a written statement thereof setting forth in reasonable detail the basis and calculation of such amounts, which statement shall be conclusive absent manifest error. Payment under this Section 3.01(c) shall be made within thirty (30) days after the date such Lender or such Agent makes a demand therefor.

(d) If any Lender or Agent determines, in its reasonable discretion, that it has received a refund in respect of any Taxes or Other Taxes as to which indemnification or additional amounts have been paid to it by the Borrower pursuant to this Section 3.01, it shall promptly remit such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Taxes or Other Taxes giving rise to such refund plus any interest included in such refund by the relevant taxing authority attributable thereto) to the Borrower, net of all reasonable out-of-pocket expenses of the Lender or Agent, as the case may be and without interest (other than any interest paid by the relevant taxing authority with respect to such refund); *provided* that the Borrower, upon the request of the Lender or Agent, as the case may be, agrees promptly to return such refund (plus any penalties, interest or other charges imposed by the relevant taxing authority) to such party in the event such party is required to repay such refund to the relevant taxing authority. Such Lender or Agent, as the case may be, shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (*provided* that such Lender or Agent may delete any information therein that such Lender or Agent deems confidential). Nothing herein contained shall interfere with the right of a Lender or Agent to arrange its tax affairs in whatever manner it thinks fit or to make available its tax returns or disclose any information relating to its tax affairs or any computations in respect thereof or require any Lender or Agent to do anything that would prejudice its ability to benefit from any other refunds, credits, reliefs, remissions or repayments to which it may be entitled.

(e) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (c) with respect to such Lender it will, if requested by the Borrower, use commercially reasonable efforts to designate another Lending Office for any Loan affected by such event; *provided* that such efforts are made on terms that, in the sole judgment exercised in good faith of such

Lender, cause such Lender and its Lending Office(s) to suffer no economic, legal or regulatory disadvantage, and *provided further* that nothing in this Section 3.01(e) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.01(a) or (c).

(f) Each Lender shall indemnify the Administrative Agent, within 10 days after demand therefor, for the full amount of any taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges with respect to which the Borrower is not required to pay additional amounts pursuant to Section 3.01(a) (“**Excluded Taxes**”) attributable to such Lender that are payable or paid by the Administrative Agent, and interest, penalties and reasonable expenses arising therefrom or with respect thereto, whether or not such Excluded Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error.

Section 3.02 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Eurodollar Rate Loans, or to determine or charge interest rates based upon the Eurodollar Rate, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or promptly, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted and all amounts due, if any, in connection with such prepayment or conversion under Section 3.05. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

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

Section 3.04 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurodollar Rate Loans. (a) If any Lender determines (in good faith) that as a result of the introduction of or any change in or in the interpretation of any Law, in each case after the date hereof, or such Lender’s compliance therewith, there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining Eurodollar Rate Loans, or a reduction in the amount received or receivable by such Lender in connection with any of the foregoing (excluding for purposes of this Section 3.04(a) any such increased costs or reduction in amount resulting from (i) Taxes or Other Taxes (as to

which Section 3.01 shall govern), (ii) changes in the basis of taxation of overall net income or overall gross income (including branch profits), and franchise (and similar) taxes imposed in lieu of net income taxes, by the United States or any foreign jurisdiction or any political subdivision of either thereof under the Laws of which such Lender is organized or maintains a Lending Office and (iii) reserve requirements contemplated by Section 3.04(c)), then from time to time within ten (10) days after demand by such Lender setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such increased cost or reduction.

(b) If any Lender determines (in good faith) that the introduction of any Law regarding capital adequacy or any change therein or in the interpretation thereof, in each case after the date hereof, or compliance by such Lender or such Lender's holding company therewith, has the effect of reducing the rate of return on the capital of such Lender or such Lender's holding company (or its Lending Office) as a consequence of its obligations hereunder to a level below that which such Lender or such Lender's holding company could have achieved but for such introduction, change or compliance (taking into consideration its policies with respect to capital adequacy, by an amount deemed by such Lender to be material, then from time to time upon demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender or such Lender's holding company for such reduction within ten (10) days after receipt of such demand.

(c) The Borrower shall pay to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits, additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive in the absence of manifest error), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the funding of the Eurodollar Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error) which in each case shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least ten (10) days' prior notice (with a copy to the Administrative Agent, and which notice shall specify the Statutory Reserve Rate, if any, applicable to such Lender) of such additional interest or cost from such Lender. If a Lender fails to give notice ten (10) days prior to the relevant Interest Payment Date, such additional interest or cost shall be due and payable ten (10) days from receipt of such notice.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 3.04 shall not constitute a waiver of such Lender's right to demand such compensation, *provided* that the Borrower shall not be required to compensate a Lender pursuant to Section 3.04(a), (b) or (c) for any such increased cost or reduction incurred more than 180 days prior to the date that such Lender demands, or notifies the Borrower of its intention to demand, compensation therefor, *provided* further that, if the circumstance giving rise to such increased cost or reduction is retroactive, then such 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(e) If any Lender requests compensation under this Section 3.04, then such Lender will, if requested by the Borrower, use commercially reasonable efforts to designate another Lending Office for any Loan affected by such event; *provided* that such efforts are made on terms that, in the reasonable judgment of such Lender, cause such Lender and its Lending Office(s) to suffer no material economic,

legal or regulatory disadvantage, and *provided further* that nothing in this Section 3.04(e) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.04(a), (b), (c) or (d) or any rights of the Borrower pursuant to Section 3.07.

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

(a) any continuation, conversion, payment or prepayment of any Eurodollar Rate Loan on a day other than the last day of the Interest Period for such Loan or (in each case, whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise), or

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

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

Section 3.06 Matters Applicable to All Requests for Compensation. (a) Any Agent or any Lender claiming compensation under this Article III shall deliver a certificate to the Borrower setting forth the additional amount or amounts to be paid to it hereunder which shall be conclusive in the absence of manifest error.

(b) With respect to any Lender's claim for compensation under Section 3.01, 3.02, 3.03 or 3.04, the Borrower shall not be required to compensate such Lender for any amount incurred more than 180 days prior to the date that such Lender notifies the Borrower of the event that gives rise to such claim; *provided that*, if the circumstance giving rise to such claim is retroactive, then such 180-day period referred to above shall be extended to include the period of retroactive effect thereof. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue from one Interest Period to another Eurodollar Rate Loans, or to convert Base Rate Loans into Eurodollar Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(c) shall be applicable); *provided that* such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) If the obligation of any Lender to make or continue from one Interest Period to another any Eurodollar Rate Loan, or to convert Base Rate Loans into Eurodollar Rate Loans shall be suspended pursuant to Section 3.06(b) hereof, such Lender's Eurodollar Rate Loans shall be automatically converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for such Eurodollar Rate Loans (or, in the case of an immediate conversion required by Section 3.02, on such earlier date as required by Law) and, unless and until such Lender gives notice as provided below that the circumstances specified in Section 3.01, 3.02, 3.03 or 3.04 hereof that gave rise to such conversion no longer exist:

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

(ii) all Loans that would otherwise be made or continued from one Interest Period to another by such Lender as Eurodollar Rate Loans shall be made or continued instead as Base Rate Loans,

and all Base Rate Loans of such Lender that would otherwise be converted into Eurodollar Rate Loans shall remain as Base Rate Loans.

(d) If any Lender gives notice to the Borrower (with a copy to the Agent) that the circumstances specified in Section 3.01, 3.02, 3.03 or 3.04 hereof that gave rise to the conversion of such Lender's Eurodollar Rate Loans pursuant to this Section 3.06 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurodollar Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurodollar Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Eurodollar Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods).

Section 3.07 Replacement of Lenders under Certain Circumstances. (a) If at any time (i) the Borrower becomes obligated to pay additional amounts or indemnity payments described in Section 3.01 or 3.04 as a result of any condition described in such Sections or any Lender ceases to make Eurodollar Rate Loans as a result of any condition described in Section 3.02 or Section 3.04, (ii) any Lender becomes a Defaulting Lender or (iii) any Lender becomes a Non-Consenting Lender, then the Borrower may, upon prior written notice to the Administrative Agent and such Lender, replace such Lender by causing such Lender to (and such Lender shall be obligated to) assign pursuant to Section 10.07(b) (with the assignment fee to be paid by the Borrower in such instance), at par, all of its rights and obligations under this Agreement to one or more Eligible Assignees; *provided* that neither the Administrative Agent nor any Lender shall have any obligation to the Borrower to find a replacement Lender or other such Person.

(b) Any Lender being replaced pursuant to Section 3.07(a) above shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's outstanding Loans, and (ii) deliver any Notes evidencing such Loans to the Borrower or Administrative Agent. Pursuant to such Assignment and Assumption, (A) the assignee Lender shall acquire all or a portion, as the case may be, of the assigning Lender's outstanding Loans, (B) all obligations of the Borrower owing to the assigning Lender relating to the Loans so assigned shall be paid in full by the assignee Lender to such assigning Lender concurrently with such assignment and assumption and (C) upon such payment and, if so requested by the assignee Lender, delivery to the assignee Lender of the appropriate Note or Notes executed by the Borrower, the assignee Lender shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender.

(c) In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of all affected Lenders in accordance with the terms of Section 10.01 and (iii) the Required Lenders have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a **"Non-Consenting Lender."**

Section 3.08 Survival. All of the Borrower's obligations under this Article III shall survive the repayment of all Obligations hereunder.

ARTICLE IV

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

The effectiveness of this Agreement is subject to the satisfaction or waiver of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) or electronic copies (following promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, if any, each in form and substance reasonably satisfactory to the Administrative Agent:

(i) counterparts of this Agreement, duly executed by Holdings, the Borrower and the Administrative Agent;

(ii) a Note executed by the Borrower in favor of each Lender that has requested a Note at least two Business Days in advance of the Closing Date;

(iii) each Collateral Document set forth on Schedule 1.01A, duly executed by each Loan Party thereto;

(iv) the Intercreditor Agreement, duly executed by the Administrative Agent, the First Lien Agent and each Loan Party thereto;

(v) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party on the Closing Date and with appropriate insertions and attachments, including the certificate of incorporation (or equivalent thereof) of each Loan Party that is a corporation certified by the relevant authority of the jurisdiction of organization of such Loan Party and a long form good standing certificate (or equivalent thereof) for each Loan Party from its jurisdiction of organization;

(vi) opinion from Kirkland & Ellis LLP, special New York counsel to Holdings substantially in the form of Exhibit F;

(vii) except as set forth in Section 6.16, evidence that all insurance (including title insurance) required to be maintained pursuant to the Loan Documents and the First Lien Term Loan Documents has been obtained and is in effect and is satisfactory to the Administrative Agent; and

(viii) a certificate signed by a Responsible Officer of the Borrower certifying compliance with the conditions set forth in paragraphs (h) and (i) of Article IV.

(b) The Administrative Agent shall have received the results of recent lien searches (or the equivalent thereof in foreign jurisdictions) conducted in the jurisdictions in which the Loan Parties are organized (to the extent available), and such search shall reveal no liens on any of the assets of the Loan Parties except for liens permitted by Section 7.01 or discharged on or prior to the Closing Date pursuant to documentation reasonably satisfactory to the Administrative Agent or arrangements reasonably satisfactory to the Administrative Agent that have been made to have such liens discharged promptly following the Closing Date.

(c) The Lenders and the Administrative Agent shall have received payment in full in cash of all costs, fees and expenses due and payable (including those required to be paid to such Lenders hereunder and under the DIP Credit Agreement and the Prepetition Credit Agreement) and invoiced before the Closing Date.

(d) The Lenders shall have received (i) the Audited Financial Statements and Unaudited Financial Statements (ii) the Pro Forma Balance Sheet and (iii) projections through June 30, 2014, in form reasonably satisfactory to the Administrative Agent, accompanied by a certificate of a Responsible Officer of the Borrower stating that such projections are based on estimates, information and assumptions believed by management of the Borrower to be reasonable on the Closing Date and that to his or her best knowledge, such Responsible Officer (not in his or her individual capacity, but solely as a Responsible Officer) has no reason to believe that such projections are incorrect or misleading in any material respect (it being understood and agreed that the projections are subject to significant uncertainties and contingencies, many of which are beyond the control of the Responsible Officer and that no assurance can be given that any of the projections will be realized, and that such projections are not a guarantee of financial performance and actual results may differ from the projected results and such differences may be material).

(e) The First Lien Agent, as bailee for the Secured Parties, shall have received certificates, if any, representing the Pledged Equity referred to therein, to the extent required therein, accompanied by undated stock powers executed in blank and instruments evidencing the Pledged Debt indorsed in blank; and

(f) the Administrative Agent shall have received satisfactory evidence that all other actions, recordings and filings that the Administrative Agent may deem reasonably necessary to satisfy the Collateral and Guarantee Requirement shall have been taken, completed or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent.

(g) The Bankruptcy Court shall have entered an order confirming the Reorganization Plan, which order (the “**Confirmation Order**”) (i) shall confirm a Reorganization Plan that is substantially consistent with the Restructuring Support Agreement, which Reorganization Plan has been accepted by Class 3 as designated thereunder, (ii) shall authorize the Facility and (iii) shall be in full force and effect and not have been reversed, modified, amended, stayed or vacated and shall not be subject to a motion to stay or subject to appeal or petition for review, rehearing or certiorari, and the period for appealing the Confirmation Order shall have elapsed. The Effective Date shall have occurred (and all conditions precedent thereto as set forth in the Confirmation Order shall have been satisfied (or shall be concurrently satisfied) or waived by the Required Lenders).

(h) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects as of the Closing Date; *provided* that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided, further* that, any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct in all respects on such respective dates.

(i) No Default or Event of Default shall have occurred and be continuing.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Each Loan Party hereby jointly and severally represents and warrants to the Agents and the Lenders that:

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

Section 5.02 Authorization; No Contravention. Subject, in the case of any Debtor, to the entry by the Bankruptcy Court of the Confirmation Order and to the terms thereof, the execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party, and the consummation of the transactions contemplated thereby, are within such Loan Party's corporate or other powers, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) violate the terms of any of such Person's Organization Documents, (b) violate or result in any breach of, or the creation of any Lien under (other than Liens created by the Loan Documents, the First Lien Term Loan Documents and other Liens permitted by Section 7.01), or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or which is binding upon such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law; except with respect to any violation or breach (but not creation of Liens or payments) referred to in each case of clauses (b) and (c) above, to the extent that such violation or breach could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.03 Governmental Authorization; Other Consents. Subject, in the case of any Debtor, to the entry by the Bankruptcy Court of the Confirmation Order and to the terms thereof, no approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with (a) the execution, delivery or performance by any Loan Party of this Agreement or any other Loan Document, (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents or (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the priority thereof, other than filings referred to in Section 5.18) or (d) the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, in each case of the foregoing, except for the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect.

Section 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party thereto. This Agreement and each other Loan

Document constitutes a legal, valid and binding obligation of each Loan Party that is party thereto, enforceable against such Loan Party in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 5.05 Financial Statements; No Material Adverse Effect. (a) (i) The Audited Financial Statements and the Unaudited Financial Statements fairly present in all material respects the consolidated financial condition of the Borrower and its consolidated Subsidiaries as of the dates thereof and their consolidated results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the periods covered thereby, except as otherwise expressly noted therein and, in the case of the Unaudited Financial Statements, subject to normal year-end audit adjustments and the absence of footnotes.

(ii) The unaudited pro forma consolidated balance sheet of the Borrower and its consolidated Subsidiaries as of [____], 2009 (including the notes thereto) (the “**Pro Forma Balance Sheet**”) has been prepared giving effect (as if such events had occurred on such date) to (i) the occurrence of the Effective Date, (ii) the First Lien Term Loans deemed converted or continued, as applicable on the Closing Date and the use of proceeds thereof, (iii) the Loans deemed made on the Closing Date and (iv) the payment of fees and expenses in connection with the foregoing. The Pro Forma Balance Sheet has been prepared in good faith, based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof, and presents fairly in all material respects in accordance with GAAP the pro forma consolidated financial position of the Borrower and its consolidated Subsidiaries as of [____], 2009 and their pro forma consolidated results of operations for the periods covered thereby, assuming that the events specified in the preceding sentence had actually occurred at such date.

(b) Since [____], 2009, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(c) The forecasts of consolidated balance sheets, income statements and cash flow statements of the Borrower and its consolidated Subsidiaries which have been furnished to the Administrative Agent prior to the Closing Date have been prepared in good faith on the basis of assumptions believed by the Borrower to be reasonable at the time made, it being understood that forecasts are, by their nature, inherently uncertain and actual results may vary from such forecasts and that such variations may be material.

Section 5.06 Litigation. As of the Closing Date, there are no actions, suits, proceedings, claims, investigations or disputes pending or, to the knowledge of the Borrower, threatened in writing or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Subsidiaries or against any of their properties or revenues that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.07 No Default. Neither the Borrower nor any Subsidiary is in default under or with respect to any Contractual Obligation that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

Section 5.08 Ownership of Property; Liens. Each Loan Party and each of its Subsidiaries has good title to, or valid leasehold interests in, or (in the case of Intellectual Property) a license or other right to use, or easements or other limited property interests in, all its properties and assets material to the ordinary conduct of its business (including all Material Real Property), free and clear of all Liens except

for minor defects in title that do not materially interfere with its ability to conduct its business or to utilize such assets for their intended purposes and Liens permitted by Section 7.01.

Section 5.09 Environmental Compliance. (a) There are no claims, actions, suits, or proceedings alleging potential liability or responsibility for violation of, or otherwise relating to, any Environmental Law or to Hazardous Materials that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (i) none of the properties currently or, to the knowledge of the Borrower, formerly owned, leased or operated by any Loan Party or any of its Subsidiaries is listed or proposed for listing on the NPL or on the CERCLIS or any analogous foreign, state or local list or, to the knowledge of the Borrower, is adjacent to any such property; and (ii) Hazardous Materials have not been released, discharged or disposed of by any Person on any property currently or, to the knowledge of the Borrower, formerly owned, leased or operated by any Loan Party or any of its Subsidiaries and Hazardous Materials have not otherwise been released, discharged or disposed of by any of the Loan Parties and their Subsidiaries at any other location, in each case in a manner that could reasonably be expected to result in Environmental Liability.

(c) The properties owned, leased or operated by the Borrower and the Subsidiaries do not contain any Hazardous Materials in amounts or concentrations which (i) constitute a violation of, (ii) require remedial action under, or (iii) could give rise to liability under, Environmental Laws, which violations, remedial actions and liabilities, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

(d) Neither the Borrower nor any of its Subsidiaries is undertaking, either individually or together with other potentially responsible parties, any investigation or assessment or remedial or response action relating to any actual or threatened release, discharge or disposal of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law, except for such investigation or assessment or remedial or response action that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(e) All Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, by any Loan Party or any of its Subsidiaries, any property currently or formerly owned or operated by any Loan Party or any of its Subsidiaries have been disposed of in a manner not reasonably expected to result, individually or in the aggregate, in a Material Adverse Effect.

(f) Except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, none of the Loan Parties and their Subsidiaries has contractually assumed any liability or obligation of any other Person under or relating to any Environmental Law.

Section 5.10 Taxes. The Borrower and its applicable Subsidiaries have filed all U.S. Federal income and material state and other material tax returns and reports required to be filed, and have paid all U.S. Federal income and material state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which reserves have been provided to the extent required by GAAP.

Section 5.11 ERISA Compliance. (a) Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect each Plan is in compliance with the applicable provisions of ERISA, the Code and other Federal or state Laws.

(b) (i) Other than the commencement of the Cases, which is a Reportable Event, no ERISA Event has occurred during the five year period prior to the date on which this representation is made or deemed made with respect to any Pension Plan; (ii) neither any Loan Party nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iii) neither any Loan Party nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would reasonably be expected to result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; (iv) neither any Loan Party nor any ERISA Affiliate has engaged in a transaction that could reasonably be expected to be subject to Sections 4069 or 4212(c) of ERISA; and (v) the present value of all benefit liabilities under each Pension Plan does not exceed the aggregate current value of the assets of such Pension Plan (based on those assumptions used to fund the Pension Plans); except, with respect to each of the foregoing clauses (i) through (v) of this Section 5.11(b), as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(c) Except as specifically disclosed in Schedule 5.11(c), (i) all employer and employee contributions required by applicable law or by the terms of any Foreign Benefit Arrangement or Foreign Plan have been made, or, if applicable, accrued in accordance with normal accounting practices; (ii) the accrued benefit obligations of each Foreign Plan (based on those assumptions used to fund such Foreign Plan) with respect to all current and former participants do not exceed the assets of such Foreign Plan; (iii) each Foreign Plan that is required to be registered has been registered and has been maintained in good standing with applicable regulatory authorities; and (iv) each such Foreign Benefit Arrangement and Foreign Plan is in compliance (A) with all material provisions of applicable law and all material applicable regulations and published interpretations thereunder with respect to such Foreign Benefit Arrangement or Foreign Plan and (B) with the terms of such plan or arrangement; except, with respect to each of the foregoing clauses (i) through (iv) of this Section 5.11(c), as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.12 Subsidiaries; Equity Interests. As of the Closing Date, neither Holdings nor any Loan Party has any Subsidiaries other than those specifically disclosed in Schedule 5.12, and all of the outstanding Equity Interests owned by the Loan Parties in such Subsidiaries have been validly issued, are fully paid and nonassessable and all Equity Interests owned by Holdings or a Loan Party are owned free and clear of all Liens except (i) those created under the Collateral Documents and (ii) any Lien that is permitted under Section 7.01. As of the Closing Date, Schedule 5.12 (a) sets forth the name and jurisdiction of each Subsidiary, (b) sets forth the ownership interest of Holdings, the Borrower and any other Subsidiary in each Subsidiary, including the percentage of such ownership and (c) identifies each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral and Guarantee Requirement.

Section 5.13 Margin Regulations; Investment Company Act. (a) The Borrower is not engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board), or extending credit for the purpose of purchasing or carrying margin stock, and no proceeds of any Borrowings will be used for any purpose that violates Regulation U.

(b) None of the Borrower, any Person Controlling the Borrower, or any Subsidiary is required to be registered as an “investment company” under the Investment Company Act of 1940.

Section 5.14 Disclosure. No report, financial statement, certificate or other written information furnished by or on behalf of any Loan Party to any Agent, any Lender or the Bankruptcy Court, in each case in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished) when taken as a whole contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; *provided* that, with respect to projected financial information and pro forma financial information, the Loan Parties represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time made; it being understood that projections are, by their nature, inherently uncertain and such projections may vary from actual results and that such variances may be material.

Section 5.15 Intellectual Property; Licenses, Etc. Each of the Loan Parties and their Subsidiaries owns, or licenses or possesses the valid right to use, all Intellectual Property that is material to the operation of the business of the Borrower and its Subsidiaries, taken as a whole, as currently conducted, and, without known conflict with the rights of any Person, except to the extent such conflicts, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. To the best knowledge of the Borrower, the conduct of the business of the Borrower and its Subsidiaries, taken as a whole, as currently conducted, does not infringe upon, misappropriate or otherwise violate any Intellectual Property of any Person and, to the knowledge of the Borrower, no Person infringes upon, misappropriates or otherwise violates any Intellectual Property owned or exclusively licensed by the Borrower and its Subsidiaries, except in each case of the foregoing as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. No written or, to the knowledge of the Borrower, oral claim or litigation regarding any Intellectual Property owned or exclusively licensed by any Loan Party or its Subsidiaries is pending or, to the knowledge of the Loan Parties, threatened against any Loan Party or Subsidiary, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.16 Solvency. On the Closing Date, after giving effect to the Effective Date and the incurrence of all Indebtedness and Obligations being incurred in connection herewith and therewith, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

Section 5.17 Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Loan Party pending or, to the knowledge of the Borrower, threatened; (b) hours worked by and payment made to employees of each Loan Party have not been in violation of the Fair Labor Standards Act or any other applicable Laws dealing with such matters; and (c) all payments due from any Loan Party on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant party.

Section 5.18 Collateral. (a) The Guarantee and Security Agreement is effective to create in favor of the Administrative Agent, for the benefit of the Lenders, legal, valid and enforceable (subject to the effect of Debtor Relief Laws and subject to general principles of equity) security interests in the Collateral described therein and proceeds thereof to the extent governed by the Uniform Commercial Code. In the case of the Pledged Equity or Pledged Debt described in any of the Collateral Documents, when stock certificates representing such Pledged Equity or promissory notes representing such Pledged Debt are delivered to the First Lien Agent, as bailee, together with the necessary endorsements, and in the case of the other Collateral described in any of the Collateral Documents, when financing statements and other filings specified on Schedule 5.18 in appropriate form are filed in the offices specified on Schedule 5.18, the Guarantee and Security Agreement shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as

security for their respective Obligations, in each case to the extent a Lien on such Collateral can be perfected by the filing of a financing statement, by filings to be made in respect of Intellectual Property in the United States Patent and Trademark Office and the United States Copyright Office or, in the case of the Pledged Equity and Pledged Debt, by possession or control, in each case prior and superior in right to any other Person (except (x) in the case of Collateral constituting Pledged Equity and Pledged Debt, nonconsensual Liens permitted by Section 7.01 and the Liens created by the First Lien Term Loan Documents and (y) in the case of Collateral other than Pledged Equity and Pledged Debt, Liens permitted by Section 7.01 and the Liens created by the First Lien Term Loan Documents); provided, however, that additional filings may be required in the United States Patent and Trademark Office and the United States Copyright Office to perfect the security interest in Intellectual Property acquired after the date hereof.

(b) Each of the Mortgages, when duly executed and delivered, is effective to create in favor of the Administrative Agent, for the benefit of the Lenders, a legal, valid and enforceable (subject to the effect of Debtor Relief Laws and subject to general principles of equity) Lien on the Mortgaged Properties described therein and proceeds thereof, and when the Mortgages are filed in the appropriate recording offices, each such Mortgage shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in the Mortgaged Properties and the proceeds thereof, as security for the Obligations (as defined in the relevant Mortgage), in each case prior and superior in right to any other Person (except that the security interest created in such real property and the Mortgaged Property may be subject to the Liens permitted by Section 7.01.

Section 5.19 Regulation H. No Mortgage encumbers improved real property that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, as amended.

Section 5.20 Certain Documents. The Borrower has delivered to the Administrative Agent a complete and correct copy of the First Lien Term Loan Documents, including any amendments, supplements or modifications with respect to any of the foregoing.

ARTICLE VI

AFFIRMATIVE COVENANTS

So long as any Loan or other Obligation hereunder which is accrued and payable shall remain unpaid or unsatisfied, each Loan Party shall, and shall cause each of its Subsidiaries to:

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

(a) as soon as available, but in any event within ninety (90) days after the end of each fiscal year of the Borrower (or 120 days after the end of the 2010 fiscal year) beginning with the first fiscal year ending after the Closing Date, a consolidated and consolidating (by region) balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such fiscal year, and the related consolidated and consolidating (by region) statements of income or operations, stockholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all prepared in accordance with GAAP (other than the consolidating financial statements, which shall be substantially in the form delivered to the Administrative Agent prior to the Closing Date), audited (in the case of the consolidated financial statements) and accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be

subject to any “going concern” or like qualification, exception or explanatory paragraph or any qualification or exception arising out of the scope of the audit;

(b) as soon as available, but in any event within forty-five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Borrower (or sixty (60) days after the end of the fiscal quarter first ending after the Closing Date), an unaudited consolidated and consolidating (by region) balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such fiscal quarter, and the related unaudited (i) consolidated and consolidating (by region) statements of income or operations for such fiscal quarter and for the portion of the fiscal year then ended and (ii) consolidated and consolidating (by region) statements of cash flows for such fiscal quarter and for the portion of the fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year for the applicable entities and the corresponding portion of the previous fiscal year for the applicable entities, all certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the consolidated financial condition, results of operations, stockholders’ equity and cash flows of the Borrower and its consolidated Subsidiaries in accordance with GAAP (other than the consolidating financial statements, which shall be substantially in the form delivered to the Administrative Agent prior to the Closing Date), subject only to normal year-end audit adjustments and the absence of footnotes;

(c) as soon as available, and in any event no later than thirty (30) days after the end of each fiscal month (or forty-five (45) days after the end of the third, sixth, ninth and twelfth fiscal month in each fiscal year), commencing with the fiscal month ended in [____], 2010, an unaudited consolidated and consolidating (by region) balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such fiscal month, and the related unaudited (i) consolidated and consolidating (by region) statements of income or operations for such fiscal month and for the portion of the fiscal year then ended and (ii) consolidated and consolidating (by region) statements of cash flows for such fiscal month and the portion of the fiscal year then ended, setting forth in each case in comparative form the figures for the previous year, all certified by a Responsible Officer of the Borrower as being fairly presented in all material respects in accordance with GAAP (other than the consolidating financial statements, which shall be substantially in the form delivered to the Administrative Agent prior to the Closing Date), subject only to normal year-end audit adjustments and the absence of footnotes; and

(d) as soon as available, and in any event no later than ninety (90) days after the end of each fiscal year of the Borrower (or 120 days after the end of the 2010 fiscal year) beginning with the first fiscal year ending after the Closing Date, a reasonably detailed consolidated budget for the following fiscal year (including a projected consolidated balance sheet of the Borrower and its consolidated Subsidiaries as of the end of the following fiscal year, the related consolidated statements of projected cash flow and projected income and a summary of the material underlying assumptions applicable thereto) (collectively, the “**Projections**”), which Projections shall be certified by a Responsible Officer of the Borrower as being prepared based upon good faith estimates and assumptions that are believed by such Responsible Officer to be reasonable at the time made and that such Responsible Officer is not aware of (x) any information contained in such Projections which is false or misleading in any material respect or (y) any omission of information which causes such Projections to be false or misleading in any material respect (it being understood and agreed that the Projections are subject to significant uncertainties and contingencies, many of which are beyond the control of the Responsible Officer and that no assurance can be given that any of the Projections will be realized, and that the Projections are not a guarantee of financial performance and actual results may differ from the projected results and such differences may be material).

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.01 may be satisfied with respect to financial information of the Borrower and its consolidated

Subsidiaries by furnishing (A) the applicable financial statements of Holdings (or any direct or indirect parent of Holdings) or (B) the Borrower's or Holdings' (or any direct or indirect parent thereof), as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC; *provided* that, with respect to each of clauses (A) and (B), (i) to the extent such information relates to Holdings (or a parent thereof), such information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to Holdings (or such parent), on the one hand, and the information relating to the Borrower and its consolidated Subsidiaries on a standalone basis, on the other hand and (ii) to the extent such information is in lieu of information required to be provided under Section 6.01(a), such materials are accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification, exception or explanatory paragraph or any qualification or exception arising out of the scope of the audit.

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

(a) simultaneously with the delivery of the financial statements referred to in Section 6.01(a), a certificate of its independent registered public accounting firm certifying such financial statements and stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default under Section 7.10 or, if any such Default or Event of Default shall exist, stating the nature and status of such event (which certificate may be limited to the extent required by such firm's general accounting and auditing rules, policies or guidelines);

(b) simultaneously with the delivery of the financial statements referred to in Section 6.01(a), (b) and (c), a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower;

(c) simultaneously with the delivery of the financial statements referred to in Section 6.01(a) and (b), a narrative discussion and analysis of the financial condition and results of operations of the Borrower and its Subsidiaries (including, without limitation, with respect to Dispositions, cost savings, facility closures, litigation, contingent liabilities and other matters as the Administrative Agent or any Lender through the Administrative Agent may from time to time reasonably request) for the applicable period, and for the period from the beginning of the then current fiscal year to the end of such period, in each case, as compared to the portion of the Projections covering such periods;

(d) simultaneously with the delivery of the financial statements referred to in Section 6.01(a) and (b), supplemental financial and operating metrics with respect to the applicable period substantially in the form delivered to the Administrative Agent prior to the Closing Date;

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

(f) promptly after the furnishing thereof, copies of any material requests or material notices received by any Loan Party (other than in the ordinary course of business) or material statements or material reports furnished to any holder of debt securities of any Loan Party or of any of its Subsidiaries in a principal amount greater than the Threshold Amount or to any holder of public or

preferred equity securities of any Loan Party and not otherwise required to be furnished to the Lenders pursuant to any other clause of this Section 6.02;

(g) no later than five (5) Business Days prior to the effectiveness thereof, copies of substantially final drafts of any proposed amendment, supplement, waiver or other modification, and any replacement, with respect to any First Lien Term Loan Document;

(h) together with the delivery of each Compliance Certificate pursuant to Section 6.02(b), to the extent not previously disclosed to the Administrative Agent, (i) a description of any change in the name or the jurisdiction of organization of any Loan Party, (ii) a certificate of a Responsible Officer of the Borrower (A) setting forth any updates to Schedule 6 of the Guarantee and Security Agreement or confirming there has been no change in the information required to be reflected in such Schedule since the date of the Guarantee and Security Agreement or the date of the most recent certificate delivered pursuant to this clause (ii), (B) identifying, based on Collateral owned, and Laws in effect, as of the date of such certificate, all Uniform Commercial Code financing statements (including fixture filings, as applicable) or other appropriate filings, recordings or registrations, including all refilings, rerecordings and reregistrations, containing a description of the Collateral that will be required to be filed of record within the 18 months following the date of such certificate, to the extent necessary and required under the Collateral Documents to protect and perfect the security interests under the Collateral Documents for a period of not less than 18 months after the date of such certificate (except as noted therein with respect to any continuation statements to be filed within such period) and (C) setting forth a reasonably detailed calculation of Excess Cash Flow for such fiscal year; *provided*, that the delivery of such certificate is only required at the time of the delivery of each Compliance Certificate required to be delivered in connection with Section 6.01(a) or (b), (iii) a description of any Person that has become a Group Member, in each case, since the date of the most recent list delivered pursuant to this Section 6.02(h) (or, in the case of the first such list so delivered, since the Closing Date) and (iv) a reconciliation of operating income of the Borrower and its Subsidiaries to Consolidated EBITDA (which reconciliation may be provided as part of the calculations included in the applicable Compliance Certificate); and

(i) promptly, subject to applicable confidentiality requirements of Group Members, such additional financial or other information as the Administrative Agent or any Lender through the Administrative Agent may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(e) or (f) 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 in Section 10.02; (ii) on which such documents are posted on the Borrower's behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); or (iii) such documents are publicly available on the SEC's website pursuant to the SEC's EDGAR system; provided that: (i) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Borrower shall be required to provide paper copies of the Compliance Certificates required by Section 6.02(b) to the Administrative Agent. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

Section 6.03 Update Calls. At least once per fiscal quarter, at such times as the Borrower and the Administrative Agent shall agree, the Borrower shall host a conference call (with a question and answer period) with the chief executive officer and chief financial officer of the Borrower and such other members of senior management of the Borrower as the Borrower deems appropriate and the Administrative Agent and the Lenders and their respective representatives and advisors to discuss the performance of the business, strategic alternatives and other issues as the Administrative Agent may reasonably request.

Section 6.04 Notices. Promptly after any Responsible Officer of a Loan Party obtains knowledge thereof, notify the Administrative Agent (for prompt notification to each Lender):

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

(b) of any development or event that has had or could reasonably be expected to have a Material Adverse Effect.

Each notice pursuant to this Section shall be accompanied by a written statement of a Responsible Officer of the Borrower (x) that such notice is being delivered pursuant to Section 6.04(a) or (b) (as applicable) and (y) setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto.

Section 6.05 Payment of Obligations. Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its material obligations of whatever nature (including, but not limited to, all material taxes, fees, assessments, and other governmental charges), except where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and any required reserves in conformity with GAAP with respect thereto have been provided on the books of the relevant Group Member.

Section 6.06 Preservation of Existence, Etc. (a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization except (i) in the case of any Subsidiary of the Borrower, where the failure to perform such obligations, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, or (ii) in a transaction permitted by Section 7.04 or 7.05, and (b) take all reasonable action to maintain all privileges (including its good standing), material rights, material permits, material licenses and material franchises necessary or desirable in the normal conduct of its business, except (i) to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect or (ii) pursuant to a transaction permitted by Section 7.04 or 7.05.

Section 6.07 Maintenance of Properties. Except if the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (a) maintain, preserve and protect all of its properties and equipment material to the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and casualty or condemnation excepted, and (b) make all necessary renewals, replacements, modifications, improvements, upgrades, extensions and additions thereof or thereto in accordance with prudent industry practice.

Section 6.08 Maintenance of Insurance. Maintain with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Borrower and its Subsidiaries) and with deductible levels as are customarily carried under similar circumstances by such other Persons and ensure

that the Administrative Agent is an additional insured and/or loss payee under such liability and property insurance as reasonably requested by the Administrative Agent.

Section 6.09 Compliance with Laws. Comply with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except if the failure to comply therewith could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 6.10 Inspection Rights; Books and Records; Discussions. (a) Keep proper books of record and account in which full, true and correct entries in all material respects are made of all dealings and transactions in relation to its business and activities and (b) permit representatives of the Administrative Agent or any Lender to visit and inspect any of its properties and examine and make abstracts from any of its books of record at any reasonable time upon reasonable notice and to discuss the business, operations, properties and financial and other condition of the Loan Parties with officers and senior managerial employees of the Loan Parties and with their independent certified public accountants, in all cases subject to applicable Law and the terms of any applicable confidentiality agreements not entered into for purposes of obstructing the operation of this Section 6.10; *provided*, that an officer of the Borrower shall be provided reasonable opportunity to participate in any such discussion with the accountants; *provided, further*, that such inspections and discussions shall be coordinated through the Administrative Agent and that in the absence of a continuation of an Event of Default, the Administrative Agent and the Lenders shall not exercise such rights more often than once (1) during any calendar quarter. The Administrative Agent and each Lender agrees to use reasonable efforts to coordinate and manage the exercise its rights under this Section 6.10 so as to minimize the disruption to the business of the Borrower and its Subsidiaries resulting therefrom.

Section 6.11 Covenant to Guarantee Obligations and Give Security. At the Borrower's expense, take all action reasonably requested by the Administrative Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:

(a) upon the formation or acquisition of any new direct or indirect Subsidiary by any Loan Party:

(i) within (x) thirty (30) days after the formation or acquisition of any such Domestic Subsidiary or such longer period as may be reasonably acceptable to the Administrative Agent if the Loan Parties are diligently pursuing compliance herewith, and (y) forty-five (45) days after the formation or acquisition of any such Foreign Subsidiary or, in the case of this clause (y), such longer period as may be reasonably acceptable to the Administrative Agent:

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

(B) cause (x) each such Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement or becomes a Guarantor to duly execute and deliver to the Administrative Agent Mortgages, Security Agreement Supplements and other security agreements and documents and to execute, deliver, file and record any such other documents, statements, assignments, instruments, agreements or other papers and take all other actions

reasonably requested by the Administrative Agent in order to create a perfected security interest with the priority required by the Collateral Documents in all of its assets required to constitute Collateral under the Loan Documents (including, with respect to Mortgages, the documents listed in Section 6.11(b)), as reasonably requested by and in form and substance reasonably satisfactory to the Administrative Agent (consistent with the Mortgages, Guarantee and Security Agreement and other security agreements in effect on the Closing Date), and (y) each direct parent of each such Subsidiary (if such parent is the Borrower or is required to be a Guarantor pursuant to the Collateral and Guarantee Requirement or becomes a Guarantor) to duly execute and deliver to the Administrative Agent such Security Agreement Supplements and other security agreements and to execute, deliver, file and record any such other documents, statements, assignments, instruments, agreements or other papers and take all other actions reasonably requested by the Administrative Agent in order to create a perfected security interest with the priority required by the Collateral Documents in any uncertificated Equity Interests of such Subsidiary that are required to constitute Collateral under the Loan Documents, as reasonably requested by the Administrative Agent and in form and substance reasonably satisfactory to the Administrative Agent (consistent with the Guarantee and Security Agreement in effect on the Closing Date); provided that notwithstanding the foregoing, prior to the First Lien Obligation Payment Date, this provision shall not apply with respect to any property which has not been included in the "Collateral" under the First Lien Term Loan Documents;

(C) (x) cause each such Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement or becomes a Guarantor to deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and any instruments evidencing the Indebtedness held by such Subsidiary and required to be pledged pursuant to the Collateral Documents, indorsed in blank to the Administrative Agent (or, prior to the First Lien Obligation Payment Date, to the First Lien Agent, as bailee for the Secured Parties), and (y) cause each direct parent of such Subsidiary (if such parent is the Borrower or is required to be a Guarantor pursuant to the Collateral and Guarantee Requirement or becomes a Guarantor) to deliver any and all certificates representing the outstanding Equity Interests (to the extent certificated) of such Subsidiary that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and any instruments evidencing the intercompany Indebtedness issued by such Subsidiary and required to be pledged in accordance with the Collateral Documents, indorsed in blank to the Administrative Agent (or, prior to the First Lien Obligation Payment Date, to the First Lien Agent, as bailee for the Secured Parties); provided that notwithstanding the foregoing, prior to the First Lien Obligation Payment Date, this provision shall not apply with respect to any property which has not been included in the "Collateral" under the First Lien Term Loan Documents;

(D) take and cause such Subsidiary and each direct or indirect parent of such Subsidiary to take whatever action (including the recording of

Mortgages, the filing of Uniform Commercial Code financing statements, delivery of stock and membership interest certificates, delivery of promissory notes duly endorsed in favor of the Administrative Agent, and the execution, delivery, filing and recording of any such other documents, statements, assignments, instruments, agreements or other papers) may be reasonably requested by the Administrative Agent to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid Liens required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity;

(E) (x) prior to the First Priority Obligations Payment Date, cause each of the Borrower's direct or indirect Domestic Subsidiaries which is a "Guarantor" under the First Lien Term Loan Documents to become a Guarantor under the Collateral and Guarantee Requirement to Guarantee the Obligations and (y) after the First Priority Obligations Payment Date, cause each such Subsidiary that is required to become a Guarantor under the Collateral and Guarantee Requirement to Guarantee the Obligations; and

(F) cause each such Subsidiary to deliver to the Administrative Agent copies of its Organization Documents,

(ii) within thirty (30) days (with respect to any Domestic Subsidiary) or forty-five (45) days (with respect to any Foreign Subsidiary) after the request therefor by the Administrative Agent (or such longer period as may be reasonably acceptable to the Administrative Agent if the Loan Parties are diligently pursuing compliance herewith), deliver to the Administrative Agent a signed copy of an opinion, addressed to the Administrative Agent, the other Agents and the Lenders, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to such matters set forth in this Section 6.11(a) as the Administrative Agent may reasonably request, and

(iii) as promptly as practicable after the request therefor by the Administrative Agent, deliver to the Administrative Agent, with respect to each parcel of Material Real Property that is owned by such Subsidiary, any existing title reports, existing surveys or existing environmental assessment reports; and

(b) after the Closing Date, concurrently with the acquisition of any Material Real Property by any Loan Party and such Material Real Property shall not already be subject to a perfected Lien pursuant to the Collateral and Guarantee Requirement, the Borrower shall give notice thereof to the Administrative Agent and promptly thereafter shall cause such assets to be subjected to a Lien to the extent and at such times as shall be required by the Collateral and Guarantee Requirement and the Collateral Documents, as the case may be, and will take, or cause the relevant Loan Party to take, such actions and at such times as shall be reasonably requested by the Administrative Agent to grant and perfect or record such Lien, including, as applicable, the actions referred to in Section 6.13(b). Notwithstanding the foregoing, prior to the First Lien Obligations Payment Date, this provision shall not apply with respect to any property which has not been included in the "Collateral" under the First Lien Term Loan Documents.

Section 6.12 Compliance with Environmental Laws. Except, in each case, to the extent that the failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) comply, and take all reasonable actions to cause all lessees and other Persons

operating or occupying its properties to comply, with all applicable Environmental Laws and Environmental Permits; (b) obtain and renew all Environmental Permits necessary for its operations and properties; and (c) in each case to the extent required by Environmental Laws, conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Hazardous Materials from any of its properties, in accordance with the requirements of all Environmental Laws.

Section 6.13 Further Assurances. (a) Promptly upon request by the Administrative Agent (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral, and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.

(b) (i) Prior to the First Priority Obligations Payment Date, in the case of any Material Real Property referred to in Section 6.11(b), which has been mortgaged under the First Lien Term Loan Documents for which a Mortgage hereunder has not been delivered, provide the Administrative Agent with Mortgages with respect to such Material Real Property as soon as reasonably practicable together with:

(A) to the extent provided to the First Lien Agent, evidence that counterparts of any such Mortgage has been duly executed, acknowledged and delivered and is in form suitable for filing or recording in all filing or recording offices that the Administrative Agent may deem reasonably necessary or desirable in order to create a valid and subsisting perfected Lien on the property and/or rights described therein in favor of the Administrative Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees that are due and payable have been paid or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent;

(B) to the extent provided to the First Lien Agent, fully paid title insurance policies (or the equivalent or other forms available in each applicable jurisdiction) (the “**Mortgage Policies**”) with endorsements, issued, coinsured and reinsured by title insurers, insuring the Mortgages to be valid subsisting Liens on the property described therein, free and clear of all defects and encumbrances except for defects in title that do not materially interfere with the Loan Party’s ability to conduct business and subject to Liens permitted by Section 7.01, and providing for such other affirmative insurance (including endorsements for future advances under the Loan Documents) and such coinsurance and direct access reinsurance as the Administrative Agent may reasonably request. Notwithstanding the foregoing, to avoid duplication of title insurance premiums, the requirements of this Section 6.13(b)(B) shall be deemed satisfied if the Title Insurance Borrower either (x) issues a single binding pro forma or marked-up unconditional commitment to issue a mortgagee’s title insurance policy (or policies) insuring both the Mortgage in favor of the First Lien Agent and the Mortgage in favor of the Administrative Agent in the aggregate amount of the fair market value of the subject Mortgaged Property, or (y) issues a binding pro forma or marked-up unconditional commitment to issue a mortgagee’s title insurance policy (or policies) insuring the Mortgage in favor of the Administrative Agent in the same amount as the binding pro forma or marked-up unconditional commitment to issue a mortgagee’s title insurance policy (or policies) insuring the Mortgage in favor of the First Lien Agent and such binding pro forma or marked-up unconditional commitment to issue a mortgagee’s title insurance policy (or policies) contains a so called “pro-tanto” endorsement. To the extent delivered to the First Lien Agent, the Administrative Agent shall have received evidence reasonably satisfactory

to the First Lien Agent that all premiums in respect of each such policy, all charges for mortgage recording tax, and all related expenses, if any, have been paid.

(C) to the extent provided to the First Lien Agent, opinions of local counsel for the Loan Parties in states in which the real properties are located, with respect to the enforceability and perfection of any such Mortgage and any related fixture filings in form and substance substantially similar to those provided to the First Lien Agent; and

(D) to the extent provided to the First Lien Agent, such other evidence, that all other actions that the Administrative Agent may reasonably deem necessary or desirable in order to create valid and subsisting Liens on the property described in each such Mortgage has been taken.

(ii) After the First Priority Obligations Payment Date, in the case of any Material Real Property referred to in Section 6.11(b), provide the Administrative Agent with Mortgages with respect to such Material Real Property within sixty (60) days of the acquisition of such real property (or such longer period as may be reasonably acceptable to the Administrative Agent if the Loan Parties are diligently pursuing compliance herewith) together with:

(A) evidence that counterparts of any such Mortgage has been duly executed, acknowledged and delivered and is in form suitable for filing or recording in all filing or recording offices that the Administrative Agent may deem reasonably necessary or desirable in order to create a valid and subsisting perfected Lien on the property and/or rights described therein in favor of the Administrative Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees that are due and payable have been paid or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent;

(B) fully paid title insurance policies (or the equivalent or other forms available in each applicable jurisdiction) (the “**Mortgage Policies**”) in form and substance, with endorsements and in amount, reasonably acceptable to the Administrative Agent (not to exceed the value of the real properties covered thereby), issued, coinsured and reinsured by title insurers reasonably acceptable to the Administrative Agent, insuring the Mortgages to be valid subsisting Liens on the property described therein, free and clear of all defects and encumbrances except for minor defects in title that do not materially interfere with the Loan Party’s ability to conduct business and subject to Liens permitted by Section 7.01, and providing for such other affirmative insurance (including endorsements for future advances under the Loan Documents) and such coinsurance and direct access reinsurance as the Administrative Agent may reasonably request;

(C) if so requested by the Administrative Agent in its reasonable discretion, opinions of local counsel for the Loan Parties in states in which the real properties are located, with respect to the enforceability and perfection of any such Mortgage and any related fixture filings in form and substance reasonably satisfactory to the Administrative Agent; and

(D) such other evidence that all other actions that the Administrative Agent may reasonably deem necessary or desirable in order to create valid and subsisting Liens on the property described in each such Mortgage has been taken.

Section 6.14 Deposit Accounts. (a) Prior to the First Priority Obligations Payment Date, maintain at all times all of the cash and Cash Equivalents of Holdings and its Domestic Subsidiaries (other than cash and Cash Equivalents not exceeding \$5,000,000 in the aggregate) at an account or accounts (i) with the First Lien Agent or any other financial institution that has entered into a control agreement with respect to such account(s) in form and substance reasonably satisfactory to the First Lien

Agent and the Administrative Agent, (ii) at an account the entire balance of which is swept at least once every three (3) Business Days to an account described in clause (i) above or (iii) at accounts not otherwise allowable under this provision which the lenders under the First Lien Credit Agreement have consented to be maintained with financial institutions other than the First Lien Agent and not subject to control agreements; and

(b) After the First Priority Obligations Payment Date, maintain at all times all of the cash and Cash Equivalents of Holdings and its Domestic Subsidiaries (other than cash and Cash Equivalents not exceeding \$5,000,000 in the aggregate) at an account or accounts (i) with the Administrative Agent or any other financial institution that has entered into a control agreement with respect to such account(s) in form and substance reasonably satisfactory to the Administrative Agent or (ii) at an account the entire balance of which is swept at least once every three (3) Business Days to an account described in clause (i) above.

Section 6.15 Ratings. Use commercially reasonable efforts to obtain, on or prior to the 30th day after the Closing Date, ratings on the Facility from S&P and Moody's.

Section 6.16 Post-Closing Covenants. Cause each post-closing matter identified on Schedule 6.16 to be completed on or before the date set forth on Schedule 6.16 for such post-closing matter.

ARTICLE VII

NEGATIVE COVENANTS

So long as any Loan or other Obligation hereunder which is accrued and payable shall remain unpaid or unsatisfied, each Loan Party shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:

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

(a) Liens created pursuant to any Loan Document;

(b) Liens existing on the Closing Date (after giving effect to the occurrence of the Effective Date) and listed on Schedule 7.01(b) and any modifications, replacements, renewals or extensions of the foregoing; *provided* that (x) except as specified on Schedule 7.01(b), the principal amount of Indebtedness secured thereby is not increased (except as a result of changes in the Exchange Rate and except by the amount of premium, penalties, accrued and unpaid interest, fee and expenses associated with any Permitted Refinancing thereof) and (y) such Liens do not at any time extend to or cover any assets other than the assets subject to such Liens on the Closing Date (after giving effect to the occurrence of the Effective Date);

(c) Liens for taxes, assessments or governmental charges which are not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if reserves with respect thereto are maintained on the books of the applicable Person to the extent required by and in accordance with GAAP;

(d) statutory Liens of landlords, carriers, warehousemen, mechanics, materialmen, repairmen, workmen, suppliers, construction contractors or other like Liens arising in the ordinary course of business which secure amounts not overdue for a period of more than forty-five (45) days or which are being contested in good faith and by appropriate proceedings diligently conducted, if reserves with

respect thereto are maintained on the books of the applicable Person to the extent required by and in accordance with GAAP;

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

(f) Liens (including rights of set-off) or deposits (including deposits made to satisfy statutory or other legal obligations in connection with sweepstakes or similar contests and Liens in favor of postal authorities) to secure the performance of bids, trade contracts, governmental contracts, tenders, statutory bonds and leases (other than Indebtedness for borrowed money and Capitalized Lease Obligations), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business;

(g) easements, rights-of-way, restrictions (including zoning restrictions), covenants, licenses, encroachments, protrusions and other similar encumbrances and minor title defects affecting real property which, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of the Borrower or any Subsidiary or materially detract from the value of the property subject thereto, and zoning, building codes and other land use laws regulating the use or occupancy of the real property or the activities conducted thereon which are imposed by any governmental authority having jurisdiction over such real property which are not violated by the current use or occupancy of such real property or the operation of the business of the Borrower or any Subsidiary thereon;

(h) Liens securing judgments, decrees, attachments or awards for the payment of money not constituting an Event of Default under Section 8.01(h);

(i) Liens securing Indebtedness permitted under Section 7.03(e) or 7.03(s); *provided that* (i) such Liens attach concurrently with or within forty-five (45) days after the acquisition, repair, replacement, construction or improvement (as applicable) of the property subject to such Liens, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, (iii) with respect to Capitalized Lease Obligations, such Liens do not at any time extend to or cover any assets other than the assets subject to such Capitalized Lease Obligations except that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender and (iv) the principal amount of Indebtedness secured thereby is not increased (except as a result of changes in the Exchange Rate and except by the amount of premiums, penalties, accrued and unpaid interest, fee and expenses associated with any Permitted Refinancing thereof);

(j) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business which do not (i) interfere in any material respect with the business of the Borrower or any Subsidiary or (ii) secure any Indebtedness;

(k) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(l) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right of set-off) arising in the ordinary course of business in connection with the maintenance of such accounts and (iii) arising under customary general terms of the

account bank in relation to any bank account maintained with such bank and attaching only to such account and the products and proceeds thereof;

(m) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 7.02(f), (i) or (l) to be applied against the purchase price for such Investment, and (ii) consisting of an agreement to Dispose of any property in a Disposition permitted under Section 7.05, in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(n) any interest or title of a lessor under leases entered into by the Borrower or any of its Subsidiaries in the ordinary course of business and covering only the assets so leased and other assets directly related to such lease, including title and similar documents;

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

(p) Liens deemed to exist in connection with Investments in repurchase agreements under Section 7.02;

(q) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business, consistent with past practice and not for speculative purposes;

(r) Liens that are contractual rights of set-off or, in the case of clause (i) or (ii) below, other bankers' Liens (i) relating to treasury, depository and cash management services or any automated clearing house transfers of funds in the ordinary course of business and not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of Holdings, the Borrower or any Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of Holdings, the Borrower and the Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any Subsidiary in the ordinary course of business;

(s) Liens solely on any cash earnest money deposits made by the Borrower or any of its Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(t) Liens on equipment (including printing presses and data-processing equipment) owned by the Borrower or any Subsidiary and located on the premises of any supplier, in the ordinary course of business;

(u) Liens on cash collateral securing letters of credit in an aggregate amount at any one time outstanding not to exceed \$25,000,000 (less the amount of cash collateral applied to the reimbursement of any such letters of credit (net of any such amounts returned by the beneficiary thereof in respect thereof));

(v) deposits in the ordinary course of business securing credit card programs maintained in the ordinary course of business in an amount not to exceed \$15,000,000 (plus the amount, up to an additional \$20,000,000, of such deposits sought by JPMorgan Chase Bank or its subsidiaries (including Paymentech)) in the aggregate at any one time outstanding;

(w) utility and other similar deposits made in the ordinary course of business;

(x) Liens on property or Equity Interests of any non-Loan Party Foreign Subsidiary, which property or Equity Interests do not constitute Collateral, securing Indebtedness of such Foreign Subsidiary permitted under Section 7.03;

(y) Liens existing on property at the time of its acquisition or existing on the property of any Person at the time such Person becomes a Subsidiary, in each case after the date hereof (other than Liens on the Equity Interests of any Person that becomes a Subsidiary); *provided* that (i) such Lien was not created in contemplation of such acquisition or such Person becoming a Subsidiary, (ii) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof), and (iii) the Indebtedness secured thereby is permitted under Section 7.03(h);

(z) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located and other Liens affecting the interest of any landlord (and any underlying landlord) of any real property leased by the Borrower or any Subsidiary;

(aa) Liens not otherwise permitted by this Section so long as (i) neither (A) the aggregate outstanding principal amount of the obligations secured thereby nor (B) the aggregate fair market value (determined as of the date such Lien is incurred) of the assets subject thereto exceeds, at any one time outstanding, \$18,000,000 in the aggregate, and (ii) such Lien does not encumber the Equity Interests of any Subsidiary of Holdings; and

(bb) Liens securing the obligations under the First Lien Term Loan Documents and any modifications, replacements, renewals or extensions thereof.

Section 7.02 Investments. Make or hold any Investments, except:

(a) Investments in cash and Cash Equivalents;

(b) loans or advances to officers, directors and employees of Holdings, the Borrower and the Subsidiaries in the ordinary course of business for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes in an aggregate principal amount outstanding for all Group Members not to exceed \$3,000,000 at any one time outstanding;

(c) Investments (i) by any Group Member in the Borrower or any wholly owned Subsidiary that is a Guarantor and (ii) by any Subsidiary that is not a Loan Party in any other Subsidiary, (iii) by any Loan Party in a Foreign Subsidiary in the ordinary course of business in the form of intercompany loans to fund ordinary course foreign operations in an aggregate amount not to exceed \$30,000,000 at any one time outstanding (provided that up to \$12,000,000 of such Investments may be made in the form of capital contributions instead of intercompany loans, the amount of such capital contributions to reduce Dollar for Dollar the amount of loans permitted by this clause (iii)) and (iv) Investments set forth on Schedule 7.02(c) up to the amounts at any one time outstanding and for the purposes set forth thereto;

(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 and other credits to suppliers in the ordinary course of business;

(e) Investments (i) resulting from the creation of a Lien permitted under Section 7.01, (ii) resulting from the incurrence of Indebtedness permitted under Section 7.03, (iii) made to effect

Dispositions permitted under Section 7.04 or Section 7.05 (other than Section 7.05(d)) or (iv) made to effect Restricted Payments permitted under Section 7.06;

(f) Investments existing on the date hereof and set forth on Schedule 7.02(f) and any modification, replacement, renewal, reinvestment or extension thereof that does not increase the aggregate amount thereof (except as a result of changes in the Exchange Rate) or as otherwise permitted by this Section 7.02;

(g) Investments in Swap Contracts permitted under Section 7.03;

(h) promissory notes and other non-cash consideration received in connection with Dispositions permitted by Section 7.05 to the extent not required to be made for cash consideration;

(i) the purchase or other acquisition of property and assets or businesses of any Person or of assets constituting a business unit, a line of business or division of such Person, or Equity Interests in a Person that, upon the consummation thereof, will be a Subsidiary of the Borrower (including as a result of a merger or consolidation); *provided that*, with respect to each purchase or other acquisition made pursuant to this Section 7.02(i) (each, a “**Permitted Acquisition**”):

(A) subject to clause (B) below, each applicable Loan Party and any such newly created or acquired Subsidiary (and, to the extent required under the Collateral and Guarantee Requirement, the Subsidiaries of such created or acquired Subsidiary) shall be a Guarantor and shall have complied with the requirements of and granted the security interests required by Section 6.11 within the times specified therein;

(B) the aggregate amount of consideration (cash and non-cash (other than the proceeds of Permitted Equity Issuances after the Closing Date Not Otherwise Applied), including (i) the fair market value (on the date of such Permitted Acquisition) of all Equity Interests issued or transferred to the sellers thereof and (ii) all indemnities, earnouts and other contingent payment obligations to, and the aggregate amounts paid or to be paid under noncompete, consulting and other affiliated agreements with, the sellers thereof, all write-downs of property and reserves for liabilities with respect thereto and all assumptions of debt, liabilities and other obligations in connection therewith; provided that any such liability or future payment pursuant to clause (ii) above that is subject to a contingency shall be considered consideration for a Permitted Acquisition for purposes of this clause (B) only to the extent of the amount of such liability or payment, if any, required under GAAP to be reflected on the face of a consolidated balance sheet of the Borrower or the reserve, if any, required under GAAP to be established in respect thereof by the Borrower or any of its Subsidiaries, in each case at the time such Permitted Acquisition is consummated) paid in respect of (x) all Permitted Acquisitions shall not exceed (1) \$50,000,000 for the period from the Closing Date to the first anniversary of the Closing Date, (2) \$100,000,000 for the period from the Closing Date to the second anniversary of the Closing Date and (3) \$150,000,000 for the period from the Closing Date to the Maturity Date (in each case plus the portion of Excess Cash Flow Not Otherwise Applied) and (y) acquisitions of Persons that do not become Loan Parties shall not exceed (1) \$25,000,000 for the period from the Closing Date to the first anniversary of the Closing Date, (2) \$50,000,000 for the period from the Closing Date to the second anniversary of the Closing Date and (3) \$75,000,000 for the period from the Closing Date to the Maturity Date;

(C) (1) immediately before and immediately after giving pro forma effect to any such purchase or other acquisition, no Default or Event of Default shall have occurred and be continuing and (2) immediately after giving effect to such purchase or other acquisition, the

Borrower and the Subsidiaries shall be in compliance with, on a pro forma basis, all of the covenants set forth in Section 7.10, such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent and the Lenders pursuant to Section 6.01(a) or (b) as though such purchase or other acquisition had been consummated as of the first day of the fiscal period covered thereby and evidenced by a certificate from a Responsible Officer of the Borrower demonstrating such compliance calculation in reasonable detail; and

(D) the Borrower shall have delivered to the Administrative Agent, on behalf of the Lenders, no later than five (5) Business Days after the date on which any such purchase or other acquisition is consummated, a certificate of a Responsible Officer, in form and substance reasonably satisfactory to the Administrative Agent, certifying that all of the requirements set forth in this clause (i) have been satisfied or will be satisfied on or prior to the consummation of such purchase or other acquisition;

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

(k) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers or in settlement of delinquent obligations of, or other disputes with, customers and suppliers arising in the ordinary course of business or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;

(l) in addition to Investments otherwise expressly permitted by this Section, Investments by the Borrower or any of its Subsidiaries in an aggregate amount not to exceed \$18,000,000 plus the aggregate amount of the proceeds of Permitted Equity Issuances after the Closing Date that have been contributed to the Borrower as common equity and Not Otherwise Applied and the portion of Excess Cash Flow Not Otherwise Applied;

(m) advances of payroll payments to employees and advances to authors in the ordinary course of business;

(n) existing Investments of a Subsidiary acquired after the Closing Date or of a corporation merged into the Borrower or merged or consolidated with a Subsidiary in accordance with Section 7.04 after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(o) Investments in assets useful in the business of the Borrower and its Subsidiaries made by the Borrower or any of its Subsidiaries with the Net Cash Proceeds received in connection with Dispositions or Casualty Events that are not applied to prepay the Loans pursuant to Section 2.03(b)(ii)(B);

(p) Guarantees by Holdings, the Borrower or any Subsidiary of leases (other than Capitalized Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business; and

(q) prepaid expenses and lease, utility, workers' compensation, performance and other similar deposits made in the ordinary course of business.

Section 7.03 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness of any Loan Party under the Loan Documents;

(b) (i) Indebtedness outstanding on the Closing Date (after giving effect to the occurrence of the Effective Date) and listed on Schedule 7.03(b) and (ii) any Permitted Refinancing thereof (to the extent (A) such Permitted Refinancing is incurred by the Person who is the obligor of the Indebtedness subject to such Permitted Refinancing or (B) such incurrence is otherwise permitted under this Section 7.03);

(c) Guarantees made in the ordinary course of business by (i) any Group Member in respect of Indebtedness of the Borrower or any Subsidiary that is a Guarantor and (ii) any Subsidiary that is not a Loan Party in respect of Indebtedness of any other Subsidiary, in each case to the extent the Indebtedness being Guaranteed is otherwise permitted hereunder; *provided* that (A) no Guarantee by any Group Member of any Junior Financing shall be permitted unless such Group Member shall have also become a Guarantor hereunder and (B) if the Indebtedness being Guaranteed is subordinated to the Obligations, such Guarantee shall be subordinated to the Obligations (or the Guarantee thereof, as applicable) on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness;

(d) Indebtedness of the Borrower or any Subsidiary owing to the Borrower or any other Subsidiary to the extent constituting an Investment permitted by Section 7.02; *provided* that, all such Indebtedness of any Loan Party owed to any Person that is not a Loan Party shall be subordinated to the payment in full of the Obligations;

(e) (i) Attributable Indebtedness and other Indebtedness (including Capitalized Lease Obligations) financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets; *provided* that such Indebtedness is incurred concurrently with or within forty-five (45) days after the applicable acquisition, construction, repair, replacement or improvement, and (ii) any Permitted Refinancing of any Indebtedness set forth in the immediately preceding clause (i); *provided* that the aggregate principal amount of all Indebtedness permitted under this Section 7.03(e) shall not exceed \$15,000,000 at any time outstanding plus the amount of any Capital Leases incurred solely as a result of the reclassification of existing operating leases as such due to changes in GAAP;

(f) Indebtedness in respect of Swap Contracts incurred in the ordinary course of business and not for speculative purposes;

(g) Indebtedness representing deferred compensation to employees of the Borrower and its Subsidiaries incurred in the ordinary course of business;

(h) Indebtedness (excluding Indebtedness incurred pursuant to Section 7.03(i) below) (i) assumed in connection with any Permitted Acquisition (provided such Indebtedness is not incurred in contemplation of such Permitted Acquisition) or incurred to finance a Permitted Acquisition or (ii) consisting of any Permitted Refinancing of the foregoing, in each case so long as both immediately prior and after giving effect thereto, (A) no Default or Event of Default shall be continuing or result therefrom, (B) the Borrower and its Subsidiaries will be in pro forma compliance with the covenants set forth in Section 7.10, such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent and the Lenders pursuant to Section 6.01(a) or (b) as though such Indebtedness had been assumed or incurred as of the first day of the fiscal period covered thereby and evidenced by a certificate from the Chief Financial Officer of the Borrower demonstrating such compliance calculation in reasonable detail, (C) the aggregate principal amount of such Indebtedness and

all Indebtedness resulting from any Permitted Refinancing thereof at any time outstanding pursuant to this paragraph (h) shall not exceed (x) \$25,000,000 for the period from the Closing Date to the first anniversary of the Closing Date, (y) \$50,000,000 for the period from the Closing Date to the second anniversary of the Closing Date and (z) \$75,000,000 for the period from the Closing Date to the Maturity Date, and (D) the aggregate principal amount of such Indebtedness and all Indebtedness resulting from any Permitted Refinancing thereof shall not exceed, with respect to any such Permitted Acquisition, 50% of the aggregate amount of consideration paid in respect thereof;

(i) unsecured Indebtedness or earn-outs that are owed to the seller incurred in connection with a Permitted Acquisition, provided that such unsecured Indebtedness or earn-outs shall be subordinated and/or restricted in a manner reasonably satisfactory to the Administrative Agent;

(j) Indebtedness incurred by the Borrower or any Subsidiary in connection with any Investment or Disposition permitted by this Agreement, in each case constituting customary indemnification obligations or obligations in respect of purchase price or other similar adjustments;

(k) Indebtedness consisting of obligations of Holdings, the Borrower or the Subsidiaries under deferred compensation or other similar arrangements incurred by such Person in connection with any Investment expressly permitted hereunder;

(l) Cash Management Obligations and other Indebtedness of Foreign Subsidiaries in respect of intraday overdraft protections and similar intraday arrangements in each case in connection with deposit accounts incurred in the ordinary course of business in connection with cash management activities in an aggregate amount at any time outstanding (determined when incurred) not to exceed (i) with respect to Foreign Subsidiaries domiciled in Europe, \$25,000,000 in the aggregate, (ii) with respect to Foreign Subsidiaries domiciled in Canada or Latin America, \$10,000,000 in the aggregate and (iii) with respect to Foreign Subsidiaries domiciled in Asia or Australia, \$10,000,000 in the aggregate;

(m) Indebtedness in an aggregate principal amount not to exceed \$18,000,000 at any time outstanding (except as a result of changes in the Exchange Rate);

(n) Indebtedness consisting of (a) the financing of insurance premiums with the providers of such insurance or their affiliates or (b) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(o) Indebtedness incurred by the Borrower or any of its Subsidiaries in respect of letters of credit, bank guarantees, bankers' acceptances or similar instruments issued or created in the ordinary course of business in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims; *provided* that any reimbursement obligations in respect thereof are reimbursed within 30 days following the incurrence thereof;

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

(q) Foreign Jurisdiction Deposits;

(r) Indebtedness of Foreign Subsidiaries in connection with factoring programs entered into in the ordinary course of business on customary market terms and with respect to receivables of, and generated by, Foreign Subsidiaries;

(s) in connection with leasehold improvements, Indebtedness incurred in connection with the financing thereof in an aggregate amount not to exceed \$10,000,000 at any time outstanding;

(t) (i) Indebtedness under the First Lien Credit Agreement in an aggregate principal amount not to exceed the First Lien Cap Amount and other First Lien Obligations (including, without limitation First Lien Secured Hedge Agreements and First Lien Cash Management Obligations), (ii) Guarantees of any Guarantor in respect of such Indebtedness and (iii) any Permitted Refinancing thereof; and

(u) to the extent constituting Indebtedness, judgments, decrees, attachments or awards not constituting an Event of Default under Section 8.01(h).

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

(a) (i) any Subsidiary of the Borrower may merge or be consolidated with the Borrower (provided that the Borrower shall be the continuing or surviving Person) or with one or more Guarantors (provided that the continuing or surviving Person is a Guarantor or a new Subsidiary which, substantially concurrently with such merger or consolidation, becomes a Guarantor hereunder) and (ii) any Subsidiary that is not a Loan Party may merge or be consolidated with one or more other Subsidiaries that are not Loan Parties;

(b) (i) any Subsidiary of the Borrower may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or one or more Guarantors and (ii) any Subsidiary that is not a Loan Party may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to one or more other Subsidiaries that are not Loan Parties; and

(c) a merger, dissolution, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 7.05, may be completed.

(d) any Subsidiary that is not a Loan Party may liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and its Subsidiaries and is not materially disadvantageous to the interests of the Lenders hereunder; and

(e) such transactions and changes described on Schedule 7.04(e) may be completed.

Section 7.05 Dispositions. Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, including the abandonment or other Disposition of Intellectual Property that is no longer material to the business of the Borrower and its Subsidiaries, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) (i) Dispositions of property by any Group Member to the Borrower or any Guarantor and (ii) Dispositions of property by any Subsidiary that is not a Loan Party to the Borrower or any Subsidiary; *provided* that to the extent such transaction constitutes an Investment, such transaction is permitted under Section 7.02;

(d) Dispositions permitted by Sections 7.04 and 7.06 and Liens permitted by Section 7.01;

(e) Dispositions of cash and Cash Equivalents;

(f) (i) Dispositions of accounts receivable in connection with the collection or compromise thereof in the ordinary course of business and (ii) the factoring by Foreign Subsidiaries at maturity or collection of any accounts receivable pursuant to factoring programs entered into in the ordinary course of business on customary market terms and with respect to receivables of, and generated by, Foreign Subsidiaries;

(g) leases, subleases, licenses or sublicenses (including the provision of software under an open source license), in each case in the ordinary course of business and which do not materially interfere with the business of Holdings, the Borrower and the Subsidiaries;

(h) transfers of property to the extent subject to Casualty Events;

(i) Dispositions listed on Schedule 7.05(i);

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

(k) Dispositions in connection with office move or relocation in the ordinary course of business;

(l) Dispositions of any and all of the art collections owned by the Borrower on the Closing Date; and

(m) in the case of Holdings, Permitted Equity Issuances;

(n) Dispositions of property not otherwise permitted under this Section 7.05; *provided* that (i) at the time of such Disposition, no Default or Event of Default shall exist or would result from such Disposition, (ii) the aggregate book value of all property Disposed of in reliance on this Section 7.05(n) shall not exceed \$18,000,000 in the aggregate per fiscal year (provided that up to 50% of such amount for each fiscal year may be (A) carried back to the immediately preceding fiscal year, decreasing Dollar for Dollar the amount of Dispositions permitted pursuant to this paragraph (n) in such fiscal year and increasing Dollar for Dollar the amount of Dispositions permitted pursuant to this paragraph (n) in such immediately preceding fiscal year or (B) to the extent unused, carried forward to the immediately succeeding fiscal year), and (iii) not less than 80% of the consideration for such Disposition shall be in the form of cash or Cash Equivalents (in each case, free and clear of all Liens at the time received), other than nonconsensual Liens permitted by Section 7.01 and Liens permitted by Section 7.01(p) and clauses (i) and (ii) of Section 7.01(r);

provided that any Disposition of any property pursuant to this Section 7.05 (except pursuant to clauses (c), (d) and (h) and except for Dispositions from any Loan Party to any Loan Party) shall be for no less

than the fair market value of such property at the time of such Disposition. To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 to any Person other than a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents without further action by the Administrative Agent, and the Administrative Agent shall be authorized to take any actions deemed appropriate in order to effect the foregoing.

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

(a) (i) any Subsidiary may make Restricted Payments to the Borrower or any Guarantor, (ii) any Subsidiary that is not a Loan Party may make Restricted Payments to the Borrower and any other Subsidiary and (iii) any Loan Party or its Subsidiary may make Restricted Payments to Holdings the proceeds of which will be used to pay (or to make Restricted Payments to allow any direct or indirect parent of Holdings to pay) the tax liability attributable to such Loan Party or Subsidiary in respect of consolidated, combined, unitary or affiliated tax returns for the relevant jurisdiction of Holdings (or such parent) in an amount not to exceed the taxes that would have been payable by such Loan Party or Subsidiary on a stand alone basis; and

(b) the Borrower and its Subsidiaries may make Restricted Payments to Holdings consisting of Permitted Holdings Distributions;

(c) so long as immediately before and after giving effect to any such Restricted Payment, no Default or Event of Default shall have occurred and be continuing or would result therefrom, the Borrower may make additional Restricted Payments to Holdings the proceeds of which may be utilized by Holdings to make additional Restricted Payments, in an aggregate amount in any fiscal year not to exceed the sum of (i) \$6,000,000 plus (ii) the aggregate amount of the proceeds of Permitted Equity Issuances after the Closing Date that have been contributed to the Borrower as common equity and Not Otherwise Applied plus (iii) the portion of Excess Cash Flow Not Otherwise Applied;

(d) Holdings, the Borrower and its Subsidiaries may declare and make dividend payments or other distributions to the extent payable in the Equity Interests (other than Disqualified Equity Interests not otherwise permitted by Section 7.03 or such dividend payments or distributions that would cause a Change of Control) of such Person;

(e) noncash repurchases of Equity Interests in Holdings, the Borrower or any Subsidiary deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants; and

(f) to the extent constituting Restricted Payments, Holdings, the Borrower and its Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Section 7.04.

Section 7.07 Change in Nature of Business. Engage in a line of business different from those lines of business conducted by the Borrower and its Subsidiaries on the date hereof or any business reasonably related, ancillary or complementary thereto.

Section 7.08 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of Holdings, whether or not in the ordinary course of business, other than (a) (i) transactions exclusively among the Borrower and any Guarantors or among any Guarantors (ii) transactions exclusively among any Subsidiaries that are not Loan Parties and (iii) transactions exclusively among any Group Members that are expressly contemplated by this Agreement to be among such Persons; *provided*,

that in each case such transactions are not otherwise prohibited by this Agreement, (b) transactions in the ordinary course of business that are not otherwise prohibited by this Agreement and that are on fair and reasonable terms no less favorable to Holdings, the Borrower or such Subsidiary as would be obtainable by Holdings, the Borrower or such Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate, (c) any Indebtedness among the Group Members to the extent permitted under Section 7.03(d), Investments of the type permitted by clauses (a), (b) and (c) of Section 7.02 and Restricted Payments permitted by Section 7.06, (d) transactions pursuant to permitted agreements in existence on the Closing Date and set forth on Schedule 7.08 and (e) transactions pursuant to the Reorganization Plan.

Section 7.09 Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that limits the ability of (a) any Subsidiary of the Borrower to make Restricted Payments to the Borrower or any other Subsidiary, (b) any Subsidiary of the Borrower to make loans or advances to, or other Investments in, the Borrower or any other Subsidiary, (c) any Subsidiary of the Borrower to transfer any of its assets to the Borrower or any other Subsidiary or (d) any Loan Party to create, incur, assume or suffer to exist any Lien upon any of its property or revenues, whether now owned or hereafter acquired; *provided* that the foregoing shall not apply to Contractual Obligations which (i) (x) arise under the First Lien Term Loan Documents or exist on the date hereof and (to the extent not otherwise permitted by this Section 7.09) are listed on Schedule 7.09 hereto or (y) are set forth in any agreement evidencing any permitted amendment, renewal, extension or refinancing of any Contractual Obligation permitted by clause (x) so long as such amendment, renewal, extension or refinancing is not materially more restrictive than such Contractual Obligation, (ii) arise in connection with any Disposition permitted by Section 7.05 and relate solely to the assets or Person subject to such Disposition, (iii) are customary restrictions in leases, subleases, licenses, sublicenses or asset sale agreements otherwise permitted hereby entered into in the ordinary course of business and consistent with past practice so long as such restrictions relate only to the assets subject thereto, (iv) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Subsidiary, (v) are customary provisions restricting assignment of any agreement entered into in the ordinary course of business, (vi) are restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business, and (vii) comprise restrictions imposed by a Lien permitted by Section 7.01 restricting the transfer of only the property subject thereto.

Section 7.10 Financial Condition Covenants.

(a) Consolidated Fixed Charge Coverage Ratio. Permit the Consolidated Fixed Charge Coverage Ratio as at the last day of any Test Period ending on any date set forth below to be less than the ratio set forth below opposite such date:

<u>Date</u>	<u>Consolidated Fixed Charge Coverage Ratio</u>
March 31, 2010	1.05 : 1.00
June 30, 2010	1.05 : 1.00
September 30, 2010	1.05 : 1.00
December 31, 2010	1.05 : 1.00
March 31, 2011	1.10 : 1.00
June 30, 2011	1.10 : 1.00

September 30, 2011	1.10 : 1.00
December 31, 2011	1.10 : 1.00
March 31, 2012	1.15 : 1.00
June 30, 2012	1.15 : 1.00
September 30, 2012	1.15 : 1.00
December 31, 2012	1.15 : 1.00
March 31, 2013	1.25 : 1.00
June 30, 2013	1.25 : 1.00
September 30, 2013	1.25 : 1.00
December 31, 2013	1.25 : 1.00
March 31, 2014	1.35 : 1.00

(b) Minimum Cumulative Consolidated EBITDA. Permit the Consolidated EBITDA as at the last day of any Test Period ending on any date set forth below, to be less than the amount set forth below opposite such date:

Date	Cumulative Consolidated EBITDA
March 31, 2010	\$115,000,000
June 30, 2010	\$115,000,000
September 30, 2010	\$115,000,000
December 31, 2010	\$115,000,000
March 31, 2011	\$130,000,000
June 30, 2011	\$130,000,000
September 30, 2011	\$130,000,000
December 31, 2011	\$130,000,000
March 31, 2012	\$130,000,000
June 30, 2012	\$130,000,000
September 30, 2012	\$130,000,000
December 31, 2012	\$130,000,000
March 31, 2013	\$140,000,000
June 30, 2013	\$140,000,000
September 30, 2013	\$140,000,000
December 31, 2013	\$140,000,000
March 31, 2014	\$140,000,000

(c) Minimum Liquidity. Permit Liquidity, as of the last day of any fiscal month, to be less than \$85,000,000.

(d) Total Leverage Ratio. Permit the Total Leverage Ratio as of the last day of any Test Period ending on any date set forth below to be greater than the ratio set forth below opposite such date:

<u>Date</u>	<u>Total Leverage Ratio</u>
March 31, 2010	4.50 : 1.00
June 30, 2010	4.50 : 1.00
September 30, 2010	4.50 : 1.00
December 31, 2010	4.50 : 1.00
March 31, 2011	4.25 : 1.00
June 30, 2011	4.25 : 1.00
September 30, 2011	4.00 : 1.00
December 31, 2011	4.00 : 1.00
March 31, 2012	3.75 : 1.00
June 30, 2012	3.75 : 1.00
September 30, 2012	3.75 : 1.00
December 31, 2012	3.75 : 1.00
March 31, 2013	3.50 : 1.00
June 30, 2013	3.50 : 1.00
September 30, 2013	3.50 : 1.00
December 31, 2013	3.50 : 1.00
March 31, 2014	3.50 : 1.00

Section 7.11 Sale and Leaseback Transactions. Enter into any arrangement with any Person providing for the leasing by any Group Member of real or personal property that has been or is to be sold or transferred by such Group Member to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of such Group Member other than any such transaction the subject of which is the Loan Parties' property at 5400 South 60th Street, Greendale, Wisconsin.

Section 7.12 Swap Contracts. Enter into any Swap Contract, except (a) Swap Contracts entered into to hedge or mitigate risks to which the Borrower or any Subsidiary has actual exposure (other than those in respect of Equity Interests of any Person) and (b) Swap Contracts entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or any Subsidiary; *provided*, that in each case such Swap Contracts are not entered into for speculative purposes.

Section 7.13 Accounting Changes. Make any change in its fiscal year, (i) except as required by GAAP and (ii) except the change to December 31 and any related changes.

Section 7.14 Prepayments, Etc. of Indebtedness. (a) Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner (it being understood that payments of regularly scheduled interest shall be permitted) any Indebtedness that is required to be subordinated to the Obligations pursuant to the terms of the Loan Documents (collectively, “**Junior Financing**”) or make any payment in violation of any subordination terms of any Junior Financing Documentation, except the refinancing thereof with the Net Cash Proceeds of any Permitted Refinancing otherwise permitted under Section 7.03.

(b) Amend, modify or change in any manner materially adverse to the interests of the Lenders (i) any term or condition of any First Lien Term Loan Document or any other Junior Financing Documentation or (ii) any Organization Document of any Group Member, in any case without the consent of the Administrative Agent.

Section 7.15 Holding Company. In the case of Holdings, conduct, transact or otherwise engage in any business or operations other than those incidental to (i) its ownership of the Equity Interests in, and its management of, the Borrower, (ii) the maintenance of its legal existence and its compliance with applicable Laws, (iii) the performance of the Loan Documents and the First Lien Term Loan Documents, (iv) any public offering of its common stock or any other issuance of its Equity Interests not prohibited by Article VII, and (v) the issuance, acquisition or maintenance of any Indebtedness or Investments, or the making of any Restricted Payments, that Holdings is expressly permitted to enter into or consummate under this Article VII; *provided* that, notwithstanding the foregoing, Holdings shall not own, lease, manage, acquire or otherwise operate any properties or assets (other than the ownership of Equity Interests in, and its management of, the Borrower, cash and Cash Equivalents and de minimis amounts of other assets incidental to the conduct of its business) or incur any material consensual liabilities (other than liabilities related to its existence and permitted business and activities specified above).

Section 7.16 Capital Expenditures. (a) Permit the aggregate amount of Capital Expenditures made during each twelve-month period ended on the date specified below to exceed the amount set forth opposite such date:

Fiscal Year	Capital Expenditure Amount
December 31, 2010	\$40,000,000
December 31, 2011	\$30,000,000
December 31, 2012	\$30,000,000
December 31, 2013	\$30,000,000

provided that the amount of Capital Expenditures permitted to be made in respect of any twelve-month period shall be increased by an amount equal to the sum of (x) the aggregate amount of the Net Cash Proceeds of Permitted Equity Issuances after the Closing Date (other than Permitted Equity Issuances made pursuant to Section 9.04) that have been contributed to the Borrower as common equity and Not Otherwise Applied.

(b) Notwithstanding anything to the contrary contained in clause (a) above, to the extent that the aggregate amount of Capital Expenditures made by the Borrower and the Subsidiaries in any fiscal year pursuant to Section 7.16(a) is less than the maximum amount of Capital Expenditures permitted by Section 7.16(a) with respect to such fiscal year, the amount of such difference (the “**Rollover Amount**”) may be carried forward and used to make Capital Expenditures in the next succeeding fiscal year; *provided* that Capital Expenditures in any fiscal year shall be counted against the base amount set forth in Section 7.16(a) with respect to such fiscal year prior to being counted against any Rollover Amount available with respect to such fiscal year.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01 Events of Default. Any of the following shall constitute an Event of Default:

(a) *Non-Payment.* The Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within three (3) Business Days after the same becomes due, any interest or any other amount payable hereunder or with respect to any other Loan Document; or

(b) *Specific Covenants.* Any Group Member fails to perform or observe (or to cause the performance or observance of) any term, covenant or agreement contained in any of Sections 6.04(a), 6.06 (solely with respect to Holdings and the Borrower) or 6.16 or Article VII or Section [____] or [____] of the Guarantee and Security Agreement; or

(c) *Other Defaults.* Any Group Member fails to perform or observe (or to cause the performance or observance of) any other covenant or agreement (not specified in Section 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after written notice thereof by the Administrative Agent or the Required Lenders to the Borrower; or

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

(e) *Cross-Default.* Any Group Member (A) fails to make any payment beyond the applicable grace period with respect thereto, if any (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness (other than Indebtedness hereunder) having an aggregate principal amount of not less than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition contained in any instrument or agreement evidencing, governing, securing or otherwise relating to any such Indebtedness, or any other “default” (or like term) occurs, the effect of which failure or other “default” is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due (automatically or otherwise) prior to its stated maturity (or, in the case of any such Indebtedness constituting a Guarantee, to become payable); provided, that any such failure or other default under the First Lien Credit Agreement shall cause an Event of Default under this clause (e)(B) only if such failure or other default, results in Indebtedness under the First Lien Credit Agreement becoming due prior to its stated maturity; provided further that this clause (e)(B) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is

permitted hereunder and under the documents providing for such Indebtedness; *provided, further*, that this clause (e) shall not apply in respect of (x) any Indebtedness of any Designated Non-Debtor that becomes due or payable, or is capable of becoming due or payable, prior to its stated maturity, or (y) any non-payment in respect of any Indebtedness by any Designated Non-Debtor, in each case to the extent caused by or directly resulting from the institution of any proceeding under any Debtor Relief Law in respect of such Designated Non-Debtor; or

(f) *Insolvency Proceedings, Etc.* Any Group Member other than a Designated Non-Debtor institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days, or an order for relief approving or ordering any of the foregoing is entered in any such proceeding (to avoid any doubt, it being understood and agreed that none of the foregoing shall be applicable to commencement of a process relating to *Mandataire ad Hoc* or an appointment of a *Mandataire* pursuant to French laws); or

(g) *Inability to Pay Debts; Attachment.* (i) Any Group Member other than a Designated Non-Debtor becomes generally unable or admits in writing its inability generally or fails generally to pay its debts in excess of the Threshold Amount as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any Group Member, and is not released, vacated or fully bonded within sixty (60) days after its issue or levy; or

(h) *Judgments.* (i) One or more judgments or decrees shall be entered against any Group Member involving in the aggregate a liability (not paid or fully covered by insurance as to which the relevant insurance company has not disputed coverage) of an amount exceeding the Threshold Amount, and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within thirty (30) days from the entry thereof; or (ii) there shall be rendered against any Group Member a nonmonetary judgment with respect to any event which causes or could reasonably be expected to have a Material Adverse Effect; or

(i) *ERISA.* (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party under Title IV of ERISA in an aggregate amount which could reasonably be expected to result in a Material Adverse Effect, (ii) any Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount which could reasonably be expected to result in a Material Adverse Effect, (iii) any Loan Party or any ERISA Affiliate engages in any “prohibited transaction” (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Pension Plan which could reasonably be expected to result in a Material Adverse Effect, or (iv) other than the matters disclosed in Schedule 5.11(c), any other event or condition shall occur or exist with respect to a Pension Plan, a Foreign Benefit Arrangement or Foreign Plan which has resulted or could reasonably be expected to result in a Material Adverse Effect; or

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

(k) *Invalidity of Liens.* Any of the Collateral Documents shall cease, for any reason, to be in full force and effect, or any Loan Party or any Affiliate of any Loan Party shall so assert, or any Liens created by any Collateral Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby other than by reason of the release thereof in accordance with the terms thereof; or

(l) *Invalidity of Guarantees.* The Guarantees contained in the Collateral Documents shall cease, for any reason, to be in full force and effect or any Loan Party or Affiliate of any Loan Party shall so assert in writing (it being understood and agreed that the discharge of a Guarantor from a Collateral Document in accordance with the terms hereof and thereof shall not be construed as the Guarantee(s) in such Collateral Document ceasing to be in full force and effect); or

(m) *Junior Financing Documentation.* Any of the Obligations of the Loan Parties under the Loan Documents for any reason shall cease to be “Senior Indebtedness” (or any comparable term) or “Senior Secured Financing” (or any comparable term) under, and as defined in any Junior Financing Documentation.

Section 8.02 Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent may and, at the request of the Required Lenders, shall take any or all of the following actions:

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

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

provided that upon the occurrence of an Event of Default specified in Section 8.01(f) with respect to the Borrower, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, without further act of the Administrative Agent or any Lender.

Section 8.03 Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

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

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

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, ratably among the holders of such Obligations in proportion to the respective amounts described in this clause *Third* payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, and the termination value under Secured Hedge Obligations and Cash Management Obligations, ratably among the holders of such Obligations in proportion to the respective amounts described in this clause *Fourth* held by them;

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

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

Notwithstanding anything to the contrary in this Agreement, amounts received from any Foreign Subsidiary on account of the Obligations of any Foreign Subsidiary shall be applied solely to the payment of Obligations of Foreign Subsidiaries.

ARTICLE IX

ADMINISTRATIVE AGENT AND OTHER AGENTS

Section 9.01 Appointment and Authorization of Agents. (a) Pursuant to the Reorganization Plan, the Administrative Agent, on behalf of the Lenders, is empowered and authorized to take action under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Without limiting the foregoing, each Lender hereby irrevocably appoints, designates and authorizes the Administrative Agent to take such actions and exercise such powers and perform such duties. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Loan Document, the Administrative Agent shall have no duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

(b) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (in its capacities as a Lender and a potential Hedge Bank) hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or on trust for) such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “collateral agent” (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.02 for

purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article IX (including, Section 9.07, as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto.

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

Section 9.03 Liability of Agents. No Agent-Related Person shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct, as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein), or (b) be responsible in any manner to any Lender or participant for any recital, statement, representation or warranty made by any Loan Party or any officer thereof, contained herein or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Collateral Documents, or for any failure of any Loan Party or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender or participant to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof.

Section 9.04 Reliance by Agents. (a) Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, electronic mail message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Loan Party), independent accountants and other experts selected by such Agent. Each Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders.

(b) For purposes of determining compliance with the conditions specified in Article IV, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved

by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

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

Section 9.06 Credit Decision; Disclosure of Information by Agents. Each Lender expressly acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

Section 9.07 Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless each Agent-Related Person from and against any and all Indemnified Liabilities incurred by it; *provided* that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person’s own gross negligence or willful misconduct, as determined by the final non-appealable judgment of a court of competent jurisdiction; provided that no action taken in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 9.07. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 9.07 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse the Administrative

Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower. The undertaking in this Section 9.07 shall survive the payment of all Obligations and the resignation of the Administrative Agent.

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

Section 9.09 Successor Agents. The Administrative Agent may resign as the Administrative Agent upon thirty (30) days’ notice to the Lenders and the Borrower. If the Administrative Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders. If no successor agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders, a successor agent, which shall be a Lender or a bank with an office in New York, New York or an Affiliate of such Lender or bank. Upon the acceptance of its appointment as successor agent hereunder, the Person acting as such successor agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term “Administrative Agent,” shall mean such successor administrative agent and/or supplemental administrative agent, as the case may be, and the retiring Administrative Agent’s appointment, powers and duties as the Administrative Agent shall be terminated. After the retiring Administrative Agent’s resignation hereunder as the Administrative Agent, the provisions of this Article IX and Sections 10.04 and 10.05 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent under this Agreement. If no successor agent has accepted appointment as the Administrative Agent by the date which is thirty (30) days following the retiring Administrative Agent’s notice of resignation, the retiring Administrative Agent’s resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. Upon the acceptance of any appointment as the Administrative Agent hereunder by a successor and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to (a) continue the perfection of the Liens granted or purported to be granted by the Collateral Documents or (b) otherwise ensure that the Collateral and Guarantee Requirement is satisfied, the Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, discretion, privileges, and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations under the Loan Documents. After the retiring Administrative Agent’s resignation hereunder as the Administrative Agent, the provisions of this Article IX shall continue in

effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Administrative Agent.

Section 9.10 Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.06 and 10.04) allowed in such judicial proceeding; and

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

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.06 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 9.11 Collateral and Guarantee Matters. The Lenders irrevocably agree:

(a) that any Lien on any property granted to or held by the Administrative Agent under any Loan Document shall be automatically released (i) upon payment in full of all Obligations (other than (x) obligations under Secured Hedge Agreements, (y) Cash Management Obligations and (z) contingent reimbursement and indemnification obligations not yet accrued and payable), (ii) at the time the property subject to such Lien is transferred or to be transferred as part of or in connection with any transfer permitted hereunder or under any other Loan Document to any Person other than a Loan Party, (iii) subject to Section 10.01, if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such greater number of Lenders as may be required pursuant to Section 10.01), or (iv) if the property subject to such Lien is owned by a Guarantor, upon release of such Guarantor from its obligations under its Guaranty under the Guarantee and Security Agreement pursuant to clause (c) below;

(b) (i) to release or subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(i) and (ii) that the Administrative Agent is authorized (but not required) to release or subordinate any Lien on any property granted to or held by the Administrative Agent under any

Loan Document to the holder of any Lien on such property that is permitted by any other clause of Section 7.01; and

(c) that any Guarantor shall be automatically released from its obligations under the Guarantee and Security Agreement if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder; *provided* that no such release shall occur if such Guarantor continues to be a guarantor in respect of any Junior Financing.

Upon request by the Administrative Agent at any time, the Required Lenders (or such greater number of Lenders as may be required pursuant to Section 10.01) will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guarantee and Security Agreement pursuant to this Section 9.11. In each case as specified in this Section 9.11, the Administrative Agent will (and each Lender irrevocably authorizes the Administrative Agent to), 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 or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or to evidence the release of such Guarantor from its obligations under the Guarantee and Security Agreement, in each case in accordance with the terms of the Loan Documents and this Section 9.11.

Section 9.12 Other Agents; Arranger and Managers. None of the Lenders or other Persons identified on the facing page or signature pages of this Agreement as a "syndication agent," "bookrunner" or "lead arranger" shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

Section 9.13 Appointment of Supplemental Administrative Agents. (a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a "**Supplemental Administrative Agent**" and collectively as "**Supplemental Administrative Agents**").

(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or

such Supplemental Administrative Agent, and (ii) the provisions of this Article IX and of Sections 10.04 and 10.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

(c) Should any instrument in writing from the Borrower, Holdings or any other Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower or Holdings, as applicable, shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

ARTICLE X

MISCELLANEOUS

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

(a) postpone any date scheduled for, or reduce or forgive the amount of, any payment of principal or interest under Section 2.05 or Section 2.06 without the written consent of each Lender directly affected thereby, it being understood that the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest;

(b) reduce or forgive the principal of, or the rate of interest specified herein on, any Loan or (subject to clause (i) of the second proviso to this Section 10.01) any fees (including fees set forth in Section 2.06 or other amounts payable hereunder or under any other Loan Document), or extend, postpone or waive the date upon which any fees are to be paid, without the written consent of each Lender directly affected thereby; *provided that*, only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate;

(c) change any provision of this Section 10.01, the definition of "Required Lenders" or "Pro Rata Share", the third sentence of Section 2.09(a), Section 2.10, Section 8.03 or Section 10.07(a)(x) without the written consent of each Lender affected thereby;

(d) release or subordinate all or substantially all of the Liens or Collateral granted to the Secured Parties under any Loan Document in any transaction or series of related transactions, without the written consent of each Lender; or

(e) release all or substantially all of the aggregate value of the Guaranty, without the written consent of each Lender;

and *provided further* that (i) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document and (ii) Section 10.07(h) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the principal of the Loans of such Lender may not be reduced or forgiven without the consent of such Lender (it being understood that any Loans held or deemed held by any Defaulting Lender shall be excluded for a vote of the Lenders hereunder requiring any consent of the Lenders).

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

Section 10.02 Notices and Other Communications; Facsimile Copies. (a) *General.* Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Loan Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower or the Administrative Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person below or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties:

The Borrower:

The Reader's Digest Association, Inc.
Reader's Digest Road
Pleasantville, NY 10570
Attention: Treasurer
Telephone number: 914-244-7683
Facsimile number: 914-244-5904
Electronic mail address: william.magill@rd.com
Website address: www.rd.com

With copies to (which shall not constitute a notice hereunder):

Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
Attention: Leonard Klingbaum
Telephone number: 212-446-4792
Facsimile number: 212-446-6460
Electronic mail address: leonard.klingbaum@kirkland.com

The Administrative Agent:

JPMorgan Chase Bank, N.A.
277 Park Avenue, 8th Floor
New York, NY 10172
Attention: Elizabeth A. Kelley
Telephone number: 212-622-4511
Facsimile number: 212-622-4557
Electronic mail address: elizabeth.kelley@jpmorgan.com

With a copy to:

JPMorgan Chase Loan & Agency Services
1111 Fannin, Floor 10
Houston, TX 77002
Attention: Maryann T. Bui
Telephone number: 713-750-7932
Facsimile number: 713-750-2878
Electronic mail address: maryann.t.bui@jpmchase.com

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Borrower and the Administrative Agent.

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

(b) *Effectiveness of Facsimile Documents and Signatures.* Loan Documents may be transmitted and/or signed by facsimile or "PDF" (subject to Section 10.02(d)). The effectiveness of any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually signed originals and shall be binding on all Loan Parties, the Agents and the Lenders.

(c) *Reliance by Agents and Lenders.* The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Conversion or Continuation Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify each Agent-Related Person and each Lender from all losses, liabilities and related reasonable out-of-pocket costs and expenses resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence or willful misconduct. All telephonic notices to the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

(d) *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 Administrative Agent, *provided* that the foregoing shall not apply to notices to any Lender pursuant to Articles II and III, if such Lender has notified the Administrative Agent that it is incapable of receiving notices thereunder by electronic communication. The Administrative Agent or the Borrower may, in their discretion, agree to accept notices and other communications to them hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

Section 10.03 No Waiver; Cumulative Remedies. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Section 10.04 Attorney Costs, Expenses and Taxes. The Borrower agrees (a) to pay or reimburse the Administrative Agent, the Syndication Agent, the Arranger and the Specified Lenders for all reasonable documented out-of-pocket costs and expenses incurred in connection with the preparation, negotiation, syndication and execution of this Agreement and the other Loan Documents, and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), and the consummation and administration of the transactions contemplated hereby and thereby, including all (i) Attorney Costs of one lead counsel in each relevant jurisdiction and (ii) costs of Moelis, J.H. Cohn and other advisors to the Administrative Agent, in the case of this clause (ii) accrued through the completion of the transactions contemplated by the Reorganization Plan and (b) to pay or reimburse the Administrative Agent, the Syndication Agent, the Arranger and each Lender for all reasonable documented out-of-pocket costs and expenses incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any negotiations, workouts, restructurings or legal proceedings, including any proceeding under any Debtor Relief Law, and including all Attorney Costs of one lead counsel in each relevant jurisdiction and the fees and disbursements of any financial advisor or third party consultants or appraisers to and of the Administrative Agent). The foregoing costs and expenses shall include all reasonable search, filing, recording and title insurance charges and fees and taxes related thereto, and other reasonable and out-of-pocket expenses incurred by any Agent. The agreements in this Section 10.04 shall survive the repayment of all Obligations. All amounts due under this Section 10.04 shall be paid within ten (10) Business Days of receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion.

Section 10.05 Indemnification by the Borrower. Whether or not the transactions contemplated hereby are consummated, the Borrower shall indemnify and hold harmless each Agent-Related Person, each Lender and their respective Affiliates, and directors, officers, employees, counsel, agents, trustees, investment advisors and attorneys-in-fact of each of the foregoing (collectively, the “**Indemnitees**”) from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments and suits and related reasonable out-of-pocket expenses (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnatee in any way relating to or arising out of or in connection with (a) the execution, delivery, enforcement, performance, administration, amendment, modification or waiver of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, (b) any Loan or the use or proposed use of the proceeds therefrom, or (c) to the extent relating to or arising from any of the foregoing, any actual or alleged presence or release of Hazardous Materials on or from any property currently or formerly owned, leased or operated by any Group Member, or any Environmental Liability related in any way to any Group Member, or (d) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnatee is a party thereto (all the foregoing, collectively, the “**Indemnified Liabilities**”), in all cases, whether or not caused by or arising, in whole or in part, out of the negligence of the Indemnatee; provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits or expenses are found in a final non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnatee, any Affiliate of such Indemnatee or any officer, director, employee, advisor, representative or agent of such Indemnatee or any such Affiliate. No Indemnatee shall be liable to any Group Member for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with this Agreement. No Indemnatee shall be liable (whether direct or indirect, in contract, tort or otherwise) to any Group Member except to the extent such liability is found in a non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnatee, any Affiliate of such Indemnatee or any officer, director, employee, advisor, representative or agent of such Indemnatee or any such Affiliate. No Indemnatee shall have any liability to any Group Member, nor any Group Member to any Indemnatee, for any special, punitive, indirect or consequential damages (including, without limitation, loss of profits, business or anticipated savings) relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date). All amounts due under this Section 10.05 shall be paid within ten (10) Business Days after demand therefor; provided, however, that such Indemnatee shall promptly refund any amount received under this Section 10.05 to the extent that there is a final judicial or arbitral determination that such Indemnatee was not entitled to indemnification or contribution rights with respect to such payment pursuant to the express terms of this Section 10.05. The agreements in this Section 10.05 shall survive the resignation of the Administrative Agent, the replacement of any Lender and the repayment, satisfaction or discharge of all the Obligations.

Section 10.06 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each

Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect.

Section 10.07 Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (x) neither Holdings nor the Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender and (y) no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee, (ii) by way of participation in accordance with the provisions of Section 10.07(e), (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.07(g) or Section 10.07(i) or (iv) to an SPC in accordance with the provisions of Section 10.07(h) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 10.07(e) and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (other than (A) a natural person or (B) Holdings or any of its Subsidiaries or any of their respective Affiliates) (“**Assignees**”) all or a portion of its rights and obligations under this Agreement (including all or a portion of the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of the Administrative Agent.

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

(1) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender’s Loans, the amount of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$1,000,000 and in increments of \$1,000,000 in excess thereof unless the Administrative Agent otherwise consents, *provided* that such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds, if any;

(2) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; *provided* that only one such fee shall be payable in the event of simultaneous assignments to or from two or more Approved Funds;

(3) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more Credit Contacts (as defined in the Administrative Questionnaire) to whom all syndicate-level information (which may contain material non-public information about Holdings, the Borrower, the other Loan Parties and their Affiliates and related parties or their respective securities) will be made available and who may receive such information in accordance with the Assignee’s compliance procedures and applicable laws, including Federal and state securities laws; and

(4) no assignment shall be effective unless and until such assignment is recorded in the Register.

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

(c) Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 10.07(d), from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, 10.04 and 10.05 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, and the surrender by the assigning Lender of its Note, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this clause (c) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.07(e).

(d) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and principal amounts (and related interest amounts) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Administrative Agent and, with respect to its own Loans, any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(e) Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than (A) a natural person or (B) Holdings or any of its Subsidiaries or any of their respective Affiliates) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement owing to it; *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or the other Loan Documents; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that directly affects such Participant. Subject to Section 10.07(f), the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.07(c) but shall not be entitled to recover greater amounts under such Sections than the selling Lender would be entitled to recover. To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 10.09 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 2.10 as though it

were a Lender. Each Lender that sells a participation with respect to a Loan 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 related interest amounts) of each Participant's interest in the Loan (the "**Participant Register**"). 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.

(f) A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 and 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant shall not be entitled to the benefits of Section 3.01 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 10.15 as though it were a Lender.

(g) Any Lender may at any time, without the consent of the Borrower or the Administrative Agent, pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(h) Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "**SPC**") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.01, 3.04 or 3.05), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the commitment to lend of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of \$3,500, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(i) Notwithstanding anything to the contrary contained herein, (1) any Lender may in accordance with applicable Law create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it and (2) any Lender that is a Fund may, without the consent of the Borrower or the Administrative Agent, create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it to the trustee for holders of obligations owed, or securities issued, by such Fund as security for such obligations or securities; *provided* that unless and until such trustee actually becomes a Lender in compliance with the other provisions of this Section 10.07, (i) no such

pledge shall release the pledging Lender from any of its obligations under the Loan Documents and (ii) such trustee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents.

Section 10.08 Confidentiality. Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information, except that Information may be disclosed (a) on a need to know basis to its Affiliates and its and its Affiliates' directors, officers, employees, trustees, investment advisors and agents, including accountants, legal counsel and other advisors (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 pursuant to the terms hereof); (b) to the extent requested by any Governmental Authority; (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement; (e) subject to an agreement for the benefit of the Borrower containing provisions substantially the same as those of this Section 10.08 (or as may otherwise be reasonably acceptable to the Borrower), to any pledgee referred to in Section 10.07(g), counterparty to a Swap Contract, Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement; (f) with the written consent of the Borrower; (g) to the extent such Information becomes publicly available other than as a result of a breach of this Section 10.08; (h) to any Governmental Authority or examiner (including the National Association of Insurance Commissioners or any other similar organization) regulating any Lender; (i) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender); or (j) in connection with the exercise of any remedies hereunder, under any other Loan Document or any legal action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder. In addition, the Agents and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration and management of this Agreement, the other Loan Documents and the Loans. For the purposes of this Section 10.08, "**Information**" means all information received from any Loan Party relating to any Loan Party or its business, other than any such information that is publicly available to any Agent or any Lender prior to disclosure by any Loan Party other than as a result of a breach of this Section 10.08; provided that, in the case of information received from a Loan Party after the date hereof, such information (i) is clearly identified at the time of delivery as confidential or (ii) is delivered pursuant to Section 6.01, 6.02 or 6.04 hereof.

EACH LENDER ACKNOWLEDGES THAT INFORMATION FURNISHED TO IT PURSUANT TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING HOLDINGS, THE BORROWER, THE OTHER LOAN PARTIES AND THEIR AFFILIATES AND RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

ALL INFORMATION, INCLUDING WAIVERS AND AMENDMENTS, FURNISHED BY HOLDINGS, THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT HOLDINGS, THE BORROWER, THE OTHER LOAN PARTIES AND THEIR AFFILIATES AND RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO HOLDINGS, THE BORROWER AND

THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

Section 10.09 Setoff. In addition to any rights and remedies of the Lenders provided by Law, but subject to the Intercreditor Agreement, upon the occurrence and during the continuance of any Event of Default, each Lender and its Affiliates is authorized at any time and from time to time, without prior notice to the Borrower or any other Loan Party, any such notice being waived by the Borrower (on its own behalf and on behalf of each Loan Party and its Subsidiaries) to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other Indebtedness at any time owing by, such Lender and its Affiliates to or for the credit or the account of the respective Loan Parties and their Subsidiaries against any and all Obligations owing to such Lender and its Affiliates hereunder or under any other Loan Document, now or hereafter existing, irrespective of whether or not such Agent or such Lender or Affiliate shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or denominated in a currency different from that of the applicable deposit or Indebtedness. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set off and application made by such Lender; *provided*, that the failure to give such notice shall not affect the validity of such setoff and application. The rights of the Administrative Agent and each Lender under this Section 10.09 are in addition to other rights and remedies (including other rights of setoff) that the Administrative Agent and such Lender may have. Notwithstanding anything herein or in any other Loan Document to the contrary, in no event shall the assets of any Foreign Subsidiary that is not a Loan Party constitute collateral security for payment of the Obligations of the Borrower or any Domestic Subsidiary, it being understood that (a) the Equity Interests of any Foreign Subsidiary that is not a Loan Party do not constitute such an asset and (b) the provisions hereof shall not limit, reduce or otherwise diminish in any respect the Borrower's obligations to make any mandatory prepayment pursuant to Section 2.03(b)(i).

Section 10.10 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable Law (collectively the "**Charges**"), shall exceed the maximum lawful rate (the "**Maximum Rate**") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable Law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Rate to the date of repayment, shall have been received by such Lender.

Section 10.11 Counterparts. This Agreement and each other Loan Document may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument; provided that, pursuant to the Reorganization Plan, the Lenders are automatically made parties to this Agreement without executing this Agreement. Delivery by telecopier of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The Agents may also require that any such documents and signatures delivered by

telecopier be confirmed by a manually signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature delivered by telecopier.

Section 10.12 Integration. The Reorganization Plan, this Agreement and the other Loan Documents comprise the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. In the event of any conflict between the provisions of this Agreement and those of any other Loan Document (except the Intercreditor Agreement), the provisions of this Agreement shall control; provided that the inclusion of supplemental rights or remedies in favor of the Agents or the Lenders in any other Loan Document shall not be deemed a conflict with this Agreement. Each Loan Document was drafted with the joint participation of the respective parties thereto and shall be construed neither against nor in favor of any party, but rather in accordance with the fair meaning thereof.

Section 10.13 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by each Agent and each Lender, regardless of any investigation made by any Agent or any Lender or on their behalf and notwithstanding that any Agent or any Lender may have had notice or knowledge of any Default at the time of any Loan, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

Section 10.14 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 10.15 Tax Forms. (a) Each Lender and Agent that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code (each, a "**Foreign Lender**") shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender or Agent under this Agreement or changes its Lending Office or place of organization (and from time to time thereafter upon the request of the Borrower or the Administrative Agent), whichever of the following is applicable:

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

(ii) duly completed copies of Internal Revenue Service Form W-8ECI,

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit H to the effect that (A) such Foreign Lender is not (i) a "bank" described in Section 881(c)(3)(A) of the Code, (ii) a "10 percent shareholder" of the applicable Borrower within the meaning of Section 881(c)(3)(B) of the Code or (iii) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code and (B) the interest payments in question are not effectively connected with the United States trade or business conducted by such Lender (a "**U.S. Tax Compliance Certificate**") and (y) duly completed copies of Internal Revenue Service Form W-8BEN,

(iv) to the extent a Foreign Lender is not the beneficial owner (for example, where the Foreign Lender is a partnership or participating Lender granting a typical participation), an Internal Revenue Service Form W-8IMY, accompanied by a Form W-8ECI, W-8BEN, U.S. Tax Compliance Certificate, Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that, if the Foreign Lender is a partnership (and not a participating Lender) and one or more beneficial owners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate on behalf of each such beneficial owner, or

(v) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made.

(b) Each Lender and Agent that is a “United States person” within the meaning of Section 7701(a)(30) of the Code (each, a “**United States Lender**”) shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender or Agent becomes a Lender or Agent under this Agreement or changes its Lending Office or place of organization (and from time to time thereafter upon the request of the Borrower or the Administrative Agent) properly completed copies of Internal Revenue Service Form W-9, certifying that such Lender or Agent, as applicable, is entitled to an exemption from United States backup withholding tax, or any successor form.

(c) Each Lender and Agent that is entitled to an exemption from or reduction of non-U.S. withholding tax under the law of the jurisdiction in which the Borrower is formed or organized, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times reasonably requested by the Borrower, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding, or at a reduced rate, provided that such Lender or Agent is legally entitled to complete, execute and deliver such documentation and in such Lender’s judgment such completion, execution or submission would not materially prejudice the legal position of such Lender. Each Lender and Agent shall promptly notify the Borrower and the Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(d) The Borrower shall not be required to pay any additional amounts under Section 3.01(a) or indemnity with respect to such Taxes under Section 3.01(c) to (A) any Foreign Lender if such Foreign Lender shall have failed to satisfy the provisions of Section 10.15(a), (B) any United States Lender if such United States Lender shall have failed to satisfy the provisions of Section 10.15(b); or (C) any Lender if such Lender shall have failed to satisfy the provisions of Section 10.15(c); *provided*, that (i) if such Lender shall have satisfied the requirement of this Section 10.15, as applicable, on the date such Lender became a Lender, or ceased to act for its own account with respect to any payment under any of the Loan Documents, nothing in this Section 10.15 shall relieve the Borrower of its obligation to pay any amounts pursuant to Section 3.01 in the event that, as a result of any change in any applicable Law, treaty or governmental rule, regulation or order, or any change in the interpretation, administration or application thereof, such Lender is no longer properly entitled to deliver forms, certificates or other evidence at a subsequent date establishing the fact that such Lender or other Person for the account of which such Lender receives any sums payable under any of the Loan Documents is not subject to withholding or is subject to withholding at a reduced rate and (ii) nothing in this Section 10.15(d) shall relieve the Borrower of its obligation to pay any amounts pursuant to Section 3.01 in the event that the requirements of Section 10.15 have not been satisfied if the Borrower is entitled, under applicable Law, to rely on any applicable forms and statements required to be provided under this Section 10.15 by the

Lender that does not act or has ceased to act for its own account under any of the Loan Documents, including in the case of a typical participation, and such Lender has provided such required forms and statements.

(e) Each Lender agrees that if any form or certification previously delivered by it expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so. Notwithstanding anything to the contrary herein, no Lender or Agent shall be required to deliver any form, certificate or other document pursuant to this Section 10.15 that such Lender or Agent is not legally able to deliver.

(f) The Administrative Agent may deduct and withhold any taxes required by any Laws to be deducted and withheld from any payment under any of the Loan Documents.

SECTION 10.16 GOVERNING LAW. THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

Section 10.17 Submission To Jurisdiction; Waivers. (a) Each Loan Party hereby irrevocably and unconditionally:

(i) submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of (i) any State or Federal court of competent jurisdiction sitting in New York County, New York and (ii) appellate courts from any thereof;

(ii) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(iii) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid at its address set forth in Section 10.02 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(iv) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right of the Administrative Agent or the Lenders to sue in any other jurisdiction; and

(v) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

SECTION 10.18 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR

HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 10.18 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

Section 10.19 Binding Effect. This Agreement shall become effective upon the satisfaction or waiver of the conditions precedent set forth in Article IV and thereafter shall be binding upon and inure to the benefit of the Borrower, each Agent and each Lender and their respective permitted successors and assigns, except that the Borrower shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders.

Section 10.20 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party or any other obligor under any of the Loan Documents or the Secured Hedge Agreements (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent. The provision of this Section 10.20 are for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.

Section 10.21 USA PATRIOT Act. Each Lender hereby notifies the Loan Parties that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name, address and tax identification numbers of the Loan Parties and other information that will allow such Lender to identify the Loan Parties in accordance with the Act.

Section 10.22 Acknowledgements. Each Loan Party hereby acknowledges that:

- (a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;
- (b) neither the Administrative Agent nor any Lender has any fiduciary relationship with or duty to any Loan Party arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Administrative Agent and Lenders, on one hand, and the Loan Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and
- (c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Loan Parties and the Lenders.

Section 10.23 Releases of Guarantee and Lien.

(a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Administrative Agent is hereby irrevocably authorized by each Lender (without requirement of notice to or consent of any Lender except as expressly required by Section 10.01) to take any action reasonably requested by the Borrower having the effect of releasing any Collateral or Guarantee Obligations (i) to the extent necessary to permit any Disposition of the applicable Collateral or

Guarantor, in each case as permitted by the Loan Documents or that has been consented to in accordance with Section 10.01 or (ii) under the circumstances described in paragraph (b) below.

(b) Subject to the terms of the Intercreditor Agreement, at such time as the Loans and the other Obligations under the Loan Documents shall have been paid in full, the Collateral shall be automatically released from the Liens created by the Collateral Documents, and the Collateral Documents (other than with respect to the provisions thereof expressly stated to survive termination) shall automatically terminate, all without delivery of any instrument or performance of any act by any Person.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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

[REORGANIZED RDA HOLDING CO.]

by

Name:

Title:

**[REORGANIZED THE READER'S DIGEST
ASSOCIATION, INC.]**

by

Name:

Title:

JPMORGAN CHASE BANK, N.A., as
Administrative Agent

by

Name:

Title:

EXHIBIT 1

Blackline of Amended Form of New Second Priority Term Loan Agreement

SECOND LIEN CREDIT AGREEMENT

Dated as of [____], ~~2011~~2010

among

[REORGANIZED RDA HOLDING CO.],

[REORGANIZED THE READER'S DIGEST ASSOCIATION, INC.],

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent

J.P. MORGAN SECURITIES INC.,
as Sole Lead Arranger and Sole Bookrunner

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CREDIT AGREEMENT

This SECOND LIEN CREDIT AGREEMENT (“**Agreement**”) is entered into as of [____], ~~2011~~2010, among [RESTRUCTURED RDA HOLDING CO.], a Delaware corporation (“**Holdings**”), [RESTRUCTURED THE READER’S DIGEST ASSOCIATION, INC.], a Delaware corporation (the “**Borrower**”), JPMORGAN CHASE BANK, N.A., as Administrative Agent, and the several banks and other financial institutions or entities from time to time parties to this Agreement (consisting initially of the holders of Prepetition Credit Agreement Claims (as defined below)) (collectively, the “**Lenders**” and each a “**Lender**”).

PRELIMINARY STATEMENTS

On August 24, 2009 (the “**Petition Date**”), Holdings and certain of its Subsidiaries (collectively, the “**Debtors**”) filed voluntary petitions with the Bankruptcy Court (such term and other capitalized terms used in these preliminary statements being used with the meanings given to such terms in Section 1.01) initiating the Cases and continued in the possession of their assets and in the management of their businesses pursuant to Bankruptcy Code Sections 1107 and 1108.

On [____], ~~2011~~2010, the Bankruptcy Court entered the Confirmation Order confirming the Debtors’ [Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, dated [____], ~~2009~~2010] (as in effect on the date of confirmation thereof and as thereafter may be amended as provided in this agreement, the “**Reorganization Plan**”).

In connection with the confirmation and consummation of the Reorganization Plan, the reorganized Debtors shall issue to the holders of Prepetition Credit Agreement Claims certain second lien term loans, and in partial satisfaction of the Prepetition Credit Agreement Claims, the holders of the Prepetition Credit Agreement Claims shall automatically become parties to this Agreement on the Effective Date.

Accordingly, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS AND ACCOUNTING TERMS

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

“**Administrative Agent**” means JPMorgan Chase Bank, in its capacity as administrative agent under any of the Loan Documents, or any permitted successor administrative agent.

“**Administrative Agent’s Office**” means the Administrative Agent’s address and, as appropriate, account as set forth in Section 10.02 or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders in writing (including by electronic mail or by posting to Intralinks or other similar information transmission systems).

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

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

“**Agent-Related Persons**” means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

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

“**Agreement**” has the meaning specified in the introductory paragraph hereto.

“**Alternative Currency**” means Sterling, Euros, Canadian Dollars or Australian Dollars.

“**Applicable Rate**” means a percentage per annum equal to (a) 11% with respect to Base Rate Loans and (b) 12% with respect to Eurodollar Rate Loans.

“**Approved Bank**” has the meaning specified in clause (c) of the definition of “Cash Equivalents”.

“**Approved Fund**” means any Fund that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

“**Arranger**” means J.P. Morgan Securities Inc., in its capacity as Sole Lead Arranger and Sole Bookrunner under this Agreement.

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

“**Assignment and Assumption**” means an Assignment and Assumption substantially in the form of Exhibit D.

“**Attorney Costs**” means and includes all reasonable fees, expenses and disbursements of any law firm or other external legal counsel.

“**Attributable Indebtedness**” means, on any date, in respect of any Capital Lease Obligation of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP.

“**Audited Financial Statements**” means the audited consolidated balance sheets of the Borrower and its consolidated Subsidiaries as of each of June 30, 2007, June 30, 2008 and June 30, 2009, and the related audited consolidated statements of income, stockholders’ equity and cash flows for the Borrower and its consolidated Subsidiaries for the periods ended on such dates.

“**Australian Dollars**” means the lawful currency of Australia.

“**Bankruptcy Code**” means the Bankruptcy Reform Act of 1978, as heretofore and hereafter amended, and codified as 11 U.S.C. §§101 et seq.

“**Bankruptcy Court**” means the United States Bankruptcy Court for the Southern District of New York, or any other court having jurisdiction over the Cases from time to time.

“Base Rate” means for any day a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by JPMorgan Chase Bank as its “prime rate” and (c) the Eurodollar Rate for a Eurodollar Rate Loan with a one month Interest Period plus 1%. The “prime rate” is a rate set by JPMorgan Chase Bank based upon various factors including JPMorgan Chase Bank 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 rate announced by JPMorgan Chase Bank shall take effect at the opening of business on the day specified in the public announcement of such change.

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

“Board” means the Board of Governors of the Federal Reserve System of the United States (or any successor).

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

“Borrowing” means a deemed making of Loans pursuant to Section 2.01.

“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent’s Office is located or in The City of New York; *provided*, that when used in connection with a Eurodollar Rate Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in deposits in Dollars in the London interbank market.

“Canadian Dollars” means the lawful currency of Canada.

“Capital Expenditures” means, for any period, with respect to any Person, the aggregate of all expenditures by such Person and its consolidated Subsidiaries for the acquisition or leasing (pursuant to a capital lease) of fixed or capital assets or additions to equipment (including replacements, capitalized repairs and improvements during such period) that are required to be capitalized under GAAP on a consolidated balance sheet of such Person and its Subsidiaries, but excluding (i) such expenditures that are made with all or any portion of any Net Cash Proceeds arising from Casualty Event or any Disposition which are reinvested, (ii) capitalized interest, (iii) such expenditures for which such Person is reimbursed in cash by a third party (other than any Group Member), (iv) the purchase price of equipment that is purchased during such period to the extent the consideration therefor consists of (x) existing equipment traded in at the time of such purchase or (y) the proceeds of a concurrent sale of existing equipment, in each case in the ordinary course of business, (v) the book value of any asset owned by the Borrower or any Subsidiary prior to or during such period to the extent that such book value is included as a capital expenditure during such period as a result of such Person reusing or beginning to reuse such asset during such period without a corresponding expenditure actually having been made in such period; provided that (x) any expenditure necessary in order to permit such asset to be reused shall be included as a Capital Expenditure during the period that such expenditure actually is made and (y) such book value shall have been included in Capital Expenditures when such asset was originally acquired and (vi) such expenditures made to fund the purchase price for assets acquired as part of a Permitted Acquisition.

“Capital Lease Obligations” means, the obligations of a 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, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

“**Cases**” means the jointly administered chapter 11 cases of the Debtors captioned In re The Reader’s Digest Association, Inc., Case No. 09-23529 (RDD), arising upon the filing by the Debtors of voluntary petitions for relief with the Bankruptcy Court on the Petition Date.

“**Cash Election**” has the meaning specified in Section 2.05(b).

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

- (a) Dollars, Euros or other Alternative Currency or, in the case of any Foreign Subsidiary, such local currencies held by it from time to time in the ordinary course of business;
- (b) marketable obligations issued or directly and fully guaranteed or insured by the government or any agency or instrumentality of (i) the United States or (ii) any member nation of the European Union, having average maturities of not more than 12 months from the date of acquisition thereof; *provided* that the full faith and credit of the United States or a member nation of the European Union is pledged in support thereof;
- (c) time deposits with, or certificates of deposit, overnight bank deposits or bankers’ acceptances issued or guaranteed by, or money market deposit accounts issued or offered by, any commercial bank that (i) is a Lender or (ii) (A) is organized under the Laws of the United States, any state thereof, the District of Columbia or any member nation of the Organization for Economic Cooperation and Development or is the principal banking Subsidiary of a bank holding company organized under the Laws of the United States, any state thereof, the District of Columbia or any member nation of the Organization for Economic Cooperation and Development, and is a member of the Federal Reserve System, and (B) has combined capital and surplus of at least \$250,000,000 (any such bank in the foregoing clauses (i) or (ii) being an “**Approved Bank**”), in each case with average maturities of not more than 12 months from the date of acquisition thereof;
- (d) commercial paper and variable or fixed rate notes issued by an Approved Bank (or by the parent company thereof) or any commercial paper or any variable or fixed rate note issued by, or guaranteed by, a corporation rated A-2 (or the equivalent thereof) or better by S&P or P-2 (or the equivalent thereof) or better by Moody’s, in each case with average maturities of not more than 12 months from the date of acquisition thereof;
- (e) fully collateralized repurchase agreements entered into by any Person with a bank or trust company (including any of the Lenders) or recognized securities dealer, in each case, having capital and surplus in excess of \$250,000,000 for direct obligations issued by or fully guaranteed or insured by the government or any agency or instrumentality of (i) the United States or (ii) any member nation of the European Union;
- (f) securities with average maturities of 12 months or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government having an investment grade rating from either S&P or Moody’s (or the equivalent thereof);
- (g) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof) or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody’s;

(h) instruments equivalent to those referred to in clauses (a) through (g) above denominated in Euros or other Alternative Currency or any other foreign currency comparable in credit quality and tenor to those referred to above and customarily used by corporations for cash management purposes in any jurisdiction outside the United States to the extent reasonably required in connection with any business conducted by any Subsidiary organized in such jurisdiction; and

(i) Investments in money market investment or similar programs which are registered under the Investment Company Act of 1940 or which are administered by financial institutions having capital of at least \$250,000,000, and, in either case, the portfolios of which are limited such that substantially all of such investments are of the character, quality and maturity described in clauses (a) through (h) of this definition.

“Cash Management Obligations” means obligations owed by Holdings, the Borrower or any Subsidiary to any “Lender” or any “Affiliate” of a “Lender” under the First Lien Credit Agreement or any Lender or Affiliate of a Lender hereunder in respect of any overdraft and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfers of funds; provided that, prior to the First Priority Obligations Payment Date, any “Cash Management Obligations” under the First Lien Credit Agreement shall not be Cash Management Obligations hereunder.

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

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as subsequently amended.

“CERCLIS” means the Comprehensive Environmental Response, Compensation, and Liability Information System maintained by the U.S. Environmental Protection Agency.

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

(a) after giving effect to the Reorganization Plan, the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act and the rules of the SEC thereunder as in effect on the date hereof), of Equity Interests representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Holdings;

(b) after giving effect to the Reorganization Plan, the board of directors of Holdings ceasing to consist of a majority of the Continuing Directors; or

(c) Holdings ceasing to own, directly, all of the outstanding Equity Interests in the Borrower.

“Charges” has the meaning specified in Section 10.10.

“Closing Date” means the first date all the conditions precedent in Article IV are satisfied or waived in accordance with Article IV.

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

“**Collateral**” means all property of the Loan Parties, now or hereafter acquired, upon which a Lien in favor of the Secured Parties is purported to be created by any Collateral Document.

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

- (a) the Administrative Agent shall have received each Collateral Document required to be delivered on the Closing Date pursuant to Article IV(a)(iii) or pursuant to Section 6.11 at such time, duly executed by each Loan Party thereto;
- (b) all Obligations shall have been unconditionally guaranteed (the “**Guaranty**”) by Holdings and each Subsidiary that is a Domestic Subsidiary (each, a “**Guarantor**”); provided that, prior to the First Priority Obligations Payment Date, any Subsidiary which is not a “**Guarantor**” under the First Lien Term Loan Documents shall not be required to be a Guarantor hereunder;
- (c) except as set forth in Section 6.16, the Obligations and the Guaranty shall have been secured by a security interest in (i) all the Equity Interests of the Borrower and (ii) all Equity Interests of each Subsidiary of the Borrower directly owned by the Borrower or any Guarantor, in each case having the priority required by the Collateral Documents; *provided* that pledges of Equity Interests of each Foreign Subsidiary, and of each Domestic Subsidiary substantially all of whose assets consist of Equity Interests of one or more Foreign Subsidiaries, shall be limited to 65% of the issued and outstanding Equity Interests of such Subsidiary at any time;
- (d) except to the extent otherwise permitted hereunder or under any Collateral Document, (i) to the extent governed by the Uniform Commercial Code, the execution of the Collateral Documents shall be effective to create a security interest in all Collateral described therein and proceeds thereof, in each case, to the extent constituting Collateral and with the priority required by the Collateral Documents and (ii) except as set forth in Section 6.16, all documents and instruments, including Uniform Commercial Code financing statements and filings made in respect of Intellectual Property constituting Collateral in the United States Patent and Trademark Office and the United States Copyright Office, reasonably requested by the Administrative Agent to be filed, registered or recorded to create the Liens intended to be created by the Collateral Documents and to perfect such Liens to the extent required by, and with the priority required by, the Collateral Documents, shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording;
- (e) none of the Collateral shall be subject to any Liens other than Liens permitted by Section 7.01; and
- (f) except as set forth in Section 6.16, the Administrative Agent shall have received (i) counterparts of a Mortgage with respect to any Material Real Property described on Schedule 1.01B hereto or required to be delivered pursuant to Section 6.11 (the “**Mortgaged Properties**”) duly executed and delivered by the record owner of such property, (ii) a policy or policies of title insurance issued by a nationally recognized title insurance company insuring the Lien of each such Mortgage as a valid Lien on the property described therein, free of any other Liens except as expressly permitted by Section 7.01, together with such endorsements, coinsurance and reinsurance as the Administrative Agent may reasonably request and (iii) such surveys, abstracts, appraisals, legal opinions and other documents as the Administrative Agent may reasonably request with respect to any such Mortgaged Property.

The foregoing definition shall not require the perfection of pledges of or security interests in, or the obtaining of title insurance or surveys with respect to particular assets (including but not limited to

Mortgaged Properties) if and for so long as, in the reasonable judgment of the Administrative Agent, the economic detriment to the Loan Parties of perfecting such pledges or security interests or the cost of perfecting such pledges or security interests in such assets or obtaining title insurance or surveys in respect of such assets shall be excessive in view of the benefits to be obtained by the Lenders therefrom. The Administrative Agent may grant extensions of time for the perfection of security interests in or the obtaining of title insurance with respect to particular assets (including extensions beyond the Closing Date for the perfection of security interests in the assets (including but not limited to Mortgaged Properties) of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that perfection or obtaining title insurance cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary, Liens required to be granted from time to time pursuant to the Collateral and Guarantee Requirement shall be subject to exceptions and limitations set forth in the Collateral Documents as in effect on the Closing Date and, to the extent appropriate in the applicable jurisdiction, as agreed between the Administrative Agent and the Borrower.

“Collateral Documents” means, collectively, the Guarantee and Security Agreement, the Mortgages, Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Administrative Agent and the Lenders pursuant to Section 6.11 or Section 6.16 and each of the other agreements, instruments or documents that creates or purports to create a Lien or Guarantee in favor of the Administrative Agent for the benefit of the Secured Parties.

“Committee” means the statutory unsecured creditors committee appointed in the Cases on August 31, 2009.

“Compensation Period” has the meaning specified in Section 2.09(c)(ii).

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

“Confirmation Order” has the meaning specified in Article IV(g).

“Consolidated EBITDA” means, for any period, the Consolidated Net Income for such period, plus:

(a) without duplication and to the extent already deducted (and not added back) in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) total interest expense and, to the extent not reflected in such total interest expense, any losses on hedging obligations or other derivative instruments entered into for the purpose of hedging interest rate risk, net of interest income and gains on such hedging obligations, and costs of surety bonds in connection with financing activities,

(ii) taxes and provision for taxes, including taxes based on income, profits or capital of the Borrower and its Subsidiaries and state, franchise and similar taxes and foreign withholding taxes paid or accrued during such period,

(iii) depreciation and amortization,

(iv) Non-Cash Charges,

(v) (x) any costs, fees, expenses or disbursements of attorneys, auditors, consultants or advisors to the Borrower and its Subsidiaries and to the Committee, in each case, incurred in connection with the events leading up to and the ongoing administration of and completion of the Cases (until the closing thereof), the Reorganization Plan and the transactions contemplated thereby and any other financial restructuring and the negotiation, execution and documentation of the DIP Credit Agreement, the First Lien Credit Agreement, this Agreement and any amendments, waivers or other modifications to the Prepetition Credit Agreement or the DIP Credit Agreement, together with any such costs, fees, expenses or disbursements paid to the attorneys, auditors, consultants and advisors of the agents and lenders in connection therewith, and (y) any upfront, arrangement or other fees paid by the Loan Parties in connection with the DIP Credit Agreement, the First Lien Credit Agreement, and this Agreement, and any other financing entered into in connection with the Reorganization Plan and the transactions contemplated thereby.

(vi) charges, premiums and expenses associated with the discharge of Prepetition Indebtedness,

(vii) any deductions consisting of subsidiary income attributable to minority interests in Reader's Digest Association Ltd., except to the extent actually paid to a holder of Equity Interests in such Subsidiary (or any designee of such Person) other than the Borrower and its Subsidiaries (with such payments to be deducted in the period made),

(viii) transaction costs, fees and expenses payable in connection with the incurrence of Indebtedness permitted under Section 7.03 (in each case whether or not any such incurrence is successful),

(ix) any costs or expenses incurred by the Borrower or a Subsidiary pursuant to any management equity plan or stock option plan or other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of Holdings,

(x) expenses resulting from liability or casualty events,

(xi) non-cash charges pursuant to SFAS 158, and

(xii) non-cash income or expenses from the continuation of purchase accounting adjustments in connection with the Transaction (as defined in the Prepetition Credit Agreement as in effect immediately prior to the effectiveness of the First Lien Credit Agreement), *less*

(xiii) non-recurring and other one-time costs incurred by the Borrower or its Subsidiaries in connection with the reorganization of its and its Subsidiaries' business, operations and structure, including, without limitation, relating to the sale or closing of facilities, establishment of telephone hotlines, the hiring of temporary employees, severance, stay bonuses and curtailments or modifications to pension and post-retirement employee benefit plans, asset writedowns or asset disposals (including leased facilities), writedowns for purchase and lease commitments, start up costs for new facilities, writedowns of excess, obsolete or unbalanced inventories, relocation costs, including costs of moving and relocating personnel, equipment, facilities, personal property and inventory,

which are not otherwise capitalized and any related promotional costs of exiting products or product lines and other restructuring costs associated with the Cases or the Reorganization Plan (to the extent not otherwise contemplated by the definition of Consolidated EBITDA) (for the avoidance of doubt, all accruals for the payment of bonuses (and associated payroll taxes) under the Enterprise Value Maximization Plan shall be treated as restructuring costs), in an aggregate amount for all costs included in this clause (xiii) not to exceed (A)(x) \$20,000,000 for the period beginning on the Closing Date and ending on December 31, 2010 and (y) \$10,000,000 for each calendar year ended thereafter plus (B) the amount of any costs described above incurred in connection with any move of the Borrower's Canary Wharf operations in an aggregate amount not to exceed \$25,000,000 during the term of this Agreement; *provided*, that to the extent that the aggregate amount of all costs included in clause (A) above for any calendar year is less than the maximum amount set forth therein, the amount of such difference may be carried forward to increase the maximum amount of costs permitted by clause (A) above for the next succeeding calendar year (it being understood that such costs in any calendar year shall be counted against the base amount set forth in clause (A) above with respect to such calendar year prior to being counted against any available carried forward amount with respect to such calendar year),

(xiv) to the extent actually reimbursed, expenses incurred to the extent covered by indemnification provisions in any agreement in connection with a Permitted Acquisition, and

(xv) foreign exchange losses resulting from the impact of foreign currency changes on the valuation of assets or liabilities on the balance sheet of the Borrower and its consolidated Subsidiaries, *less*

(b) without duplication and to the extent included in arriving at such Consolidated Net Income, the sum of the following amounts for such period:

(i) extraordinary gains and unusual or non-recurring gains,

(ii) non-cash gains (excluding any ordinary course non-cash gain to the extent it represents the reversal of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period),

(iii) gains on asset sales (other than asset sales in the ordinary course of business),

(iv) any net after-tax income from the early extinguishment of Indebtedness or hedging obligations or other derivative instruments,

(v) all gains from sales of investments recorded using the equity method,

(vi) foreign exchange gains resulting from the impact of foreign currency changes on the valuation of assets or liabilities on the balance sheet of the Borrower and its consolidated Subsidiaries, and

(vii) any additions resulting from subsidiary losses attributable to minority interests in Reader's Digest Association Ltd.,

in each case, as determined on a consolidated basis for the Borrower and its Subsidiaries in accordance with GAAP; *provided* that, to the extent included in Consolidated Net Income,

- (i) there shall be excluded in determining Consolidated EBITDA currency translation gains and losses related to currency measurements of Indebtedness (including the net loss or gain resulting from Swap Contracts for currency exchange risk),
- (ii) there shall be excluded in determining Consolidated EBITDA for any period any adjustments resulting from the application of Statement of Financial Accounting Standards No. 133,
- (iii) there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset sold, transferred or otherwise disposed of closed or classified as discontinued operations by the Borrower or any Subsidiary during such period (each such Person, property, business or asset so sold or disposed of, a **“Sold Entity or Business”**), based on the actual Disposed EBITDA of such Sold Entity or Business for such period (including the portion thereof occurring prior to such sale, transfer or disposition), and
- (iv) there shall be excluded in determining Consolidated EBITDA for any period any non-cash impact attributable to the Borrower’s adoption of fresh-start accounting in accordance with GAAP upon effectiveness of the Reorganization Plan.

For the purpose of the definition of Consolidated EBITDA, **“Non-Cash Charges”** means (a) non-cash losses on asset sales, disposals or abandonments (other than of current assets), (b) any impairment charge or asset write-off related to intangible assets, long-lived assets, and investments in debt and equity securities pursuant to GAAP, (c) all losses from investments recorded using the equity method, (d) stock-based awards compensation expense, and (e) other non-recurring non-cash charges (*provided* that if any non-cash charges referred to in this clause (e) represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA in such future period to such extent, and excluding non-cash charges consisting of amortization of a prepaid cash item that was paid in a prior period). Notwithstanding the foregoing, Consolidated EBITDA for the fiscal quarters ending March 31, 2009, June 30, 2009 and September 30, 2009 shall be deemed to be ~~\$(17,240,000)~~, ~~\$(82,955,000)~~ 17,285,000, \$82,976,000 and ~~\$(1,449,000)~~ 1,461,000, respectively.

“Consolidated EBITDA Event” means that for the period of twelve months most recently ended on or prior to the Interest Period for which the Borrower makes an Interest Election, Consolidated EBITDA for the Borrower and its consolidated Subsidiaries shall be less than \$180,000,000.

“Consolidated Fixed Charge Coverage Ratio” means, for any Test Period, the ratio of (a) Consolidated EBITDA for such Test Period to (b) Consolidated Fixed Charges for such Test Period.

“Consolidated Fixed Charges” means, for any Test Period, the sum (without duplication) of (a) Consolidated Interest Expense for such Test Period, (b) the aggregate amount actually paid by the Borrower and its consolidated Subsidiaries during such Test Period on account of Capital Expenditures other than Capital Expenditures, to the extent financed with any proceeds from Indebtedness (other than any Loans) and (c) scheduled payments made during such Test Period on account of principal of Indebtedness of the Borrower and its consolidated Subsidiaries (excluding principal payments made in connection with the Prepetition Credit Agreement (other than the Prepetition Euro Term Loans)).

“Consolidated Interest Expense” means, for any Test Period, that portion of interest expense (including that attributable to Capital Lease Obligations) of the Borrower and its consolidated Subsidiaries paid or accrued under GAAP for such Test Period that is currently payable in cash for such Test Period with respect to all outstanding Indebtedness of the Borrower and its consolidated Subsidiaries determined on a consolidated basis in accordance with GAAP; *provided*, that Consolidated Interest Expense for any Test Period shall exclude (a) any amortization or write-off of deferred financing fees during such Test Period, (b) premiums paid in connection with the discharge of Indebtedness, (c) interest expense in connection with the Senior Subordinated Notes and (d) interest expense in connection with the Prepetition Credit Agreement (other than the Prepetition Euro Term Loans; *provided, further*, that Consolidated Interest Expense for any Test Period shall include for the period prior to the Closing Date interest expense in connection with the First Lien Term Loans as if \$150,000,000 of U.S. Term Loans (as defined in the First Lien Credit Agreement) had been made on the first day of such Test Period).

“Consolidated Net Income” means, for any period, the net income (loss) of the Borrower and its Subsidiaries for such period determined on a consolidated basis in accordance with GAAP, excluding, without duplication, (a) the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary of Holdings or is merged into or consolidated with Holdings or any of its Subsidiaries and (b) the income (or deficit) of any Person (other than a Subsidiary of the Borrower) in which the Borrower or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by (or such deficit is actually distributed to) the Borrower or such Subsidiary in the form of dividends or similar distributions.

“Consolidated Total Debt” means, as of any date of determination, the aggregate principal amount of Indebtedness of the Borrower and its Subsidiaries outstanding on such date, determined on a consolidated basis in accordance with GAAP (but excluding the effects of any discounting of Indebtedness resulting from the application of purchase accounting in connection with any Permitted Acquisition), required to be reflected as “indebtedness” (or the equivalent thereof) on a consolidated balance sheet of the Borrower in accordance with GAAP (other than Indebtedness described in clause (b) (other than in respect of drawings thereunder to the extent not reimbursed within two Business Days after the date of such drawing) or (c) of the definition of Indebtedness).

“Continuing Directors” means the directors of Holdings on the Closing Date and each other director, if, in each case, such other directors’ nomination for election to the board of directors of Holdings is recommended by a majority of the then Continuing Directors.

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

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

“Conversion or Continuation Notice” means a notice of (a) a conversion of Loans from one Type to the other, or (b) a continuation of Eurodollar Rate Loans, pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit A.

“Debt Issuance” means the issuance by any Person and its Subsidiaries of any Indebtedness for borrowed money.

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

“Debtor Relief Laws” means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally (including, in the case of Loan Parties incorporated or organized in England or Wales, administration, administrative receivership, voluntary arrangement and schemes of arrangement).

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

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

“Defaulting Lender” means any Lender that (a) has failed to pay over to the Administrative Agent or any other Lender any amount required to be paid by it hereunder within one (1) Business Day of the date when due, unless subsequently cured or (b) has been deemed insolvent or become the subject of a bankruptcy or insolvency proceeding.

“Designated Non-Debtors” means the Subsidiaries set forth on Schedule 1.01C.

“Designated Obligations” means all obligations of the Borrower with respect to (a) principal of and interest on the Loans and (b) accrued and unpaid fees under the Loan Documents.

“DIP Agent” means JPMorgan Chase Bank, N.A. in its capacity as administrative agent for the lenders under the DIP Credit Agreement.

“DIP Credit Agreement” means the Credit and Guarantee Agreement, dated as of August 26, 2009, among Holdings, the Borrower and certain of the Borrower’s Subsidiaries, the lenders from time to time party thereto, the DIP Agent and the other parties thereto, as amended, supplemented or otherwise modified prior to the date hereof.

“DIP Facility” means the term loan facility made available under the DIP Credit Agreement.

“Disposed EBITDA” means, with respect to any Sold Entity or Business for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business (determined as if references to the Borrower and its Subsidiaries in the definition of Consolidated EBITDA were references to such Sold Entity or Business and its Subsidiaries), all as determined on a consolidated basis for such Sold Entity or Business.

“Disposition” or **“Dispose”** means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction and any sale of Equity Interests held in another Person) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith; and, other than for purposes of Section 2.03(b)(ii), shall include any issuance by a Person of any of its Equity Interests to another Person.

“Disqualified Equity Interests” means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) requires the scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 91 days after the Maturity Date.

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

“Domestic Subsidiary” means any Subsidiary that is organized under the Laws of the United States, any state thereof or the District of Columbia.

“ECF Percentage” means 75%; provided that with respect to each fiscal year of the Borrower, the ECF Percentage shall be 50% in respect of such fiscal year if the Total Leverage Ratio as of the last day of such fiscal year is less than ~~1.00~~ 3.00: 1.00.

“Effective Date” means the effective date of the Reorganization Plan.

“Eligible Assignee” means any Assignee permitted by and consented to in accordance with Section 10.07(b).

“EMU” means the economic and monetary union in accordance with the Treaty of Rome 1957, as amended by the Single European Act 1986, the Maastricht Treaty of 1992 and the Amsterdam Treaty of 1998.

“EMU Legislation” means the legislative measures of the European Council for the introduction of, changeover to or operation of a single or unified European currency.

“Enterprise Value Maximization Plan” means the Borrower’s Enterprise Value Maximization Plan, effective as of the Effective Date.

“Environmental Laws” means any and all Laws (including common law) relating to pollution, the protection of the environment, the protection of natural resources, or, to the extent relating to exposure to hazardous substances, the protection of human health or to the release of any pollutants into the environment, including those related to air emissions and discharges to public water or waste treatment systems.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Borrower, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Environmental Permit” means any permit, approval, identification number, license or other authorization required under any Environmental Law.

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

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

“ERISA Affiliate” means any trade or business (whether or not incorporated) that is under common control with any Loan Party within the meaning of Section 4001 of ERISA.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization or is in endangered or critical status (within the meaning of Section 432 of the Code or Section 305 or Title IV of ERISA); (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any ERISA Affiliate; (g) a determination that any Pension Plan is, or is expected to be, in “at risk” status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (h) the filing pursuant to Section 412 of the Code or Section 303 of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or the failure of any Loan Party or any ERISA Affiliates to make any required contribution to a Multiemployer Plan; or (i) any failure by any Pension Plan to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan, whether or not waived.

“Euro” and **“€”** means the lawful currency of the Participating Member States introduced in accordance with EMU Legislation.

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

(a) the rate per annum equal to the rate determined by the Administrative Agent to be the offered rate that appears on the page of the Reuters Screen LIBOR01 Page (or any successor thereto) that displays an average British Bankers Association Interest Settlement Rate for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period, or, if different, the date on which quotations would customarily be provided by leading banks in the London Interbank Market for deposits of amounts in the relevant currency for delivery on the first day of such Interest Period, or

(b) if the rate referenced in the preceding clause (a) does not appear on such page or service or such page or service shall not be available, the rate per annum equal to the rate determined by the Administrative Agent to be the offered rate on such other page or other service

that displays an average British Bankers Association Interest Settlement Rate for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period, or, if different, the date on which quotations would customarily be provided by leading banks in the London Interbank Market for deposits of amounts in the relevant currency for delivery on the first day of such Interest Period, or

(c) if the rates referenced in the preceding clauses (a) and (b) are not available, the rate per annum determined by the Administrative Agent as the rate of interest at which deposits in Dollars for delivery on the first day of such Interest Period in Same Day Funds in the approximate amount of the Eurodollar Rate Loan being made, continued or converted by JPMorgan Chase Bank and with a term equivalent to such Interest Period would be offered by JPMorgan Chase Bank's London Branch to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two (2) Business Days prior to the first day of such Interest Period or, if different, the date on which quotations would customarily be provided by leading banks in the London Interbank Market for deposits of amounts in the relevant currency for delivery on the first day of such Interest Period;

provided, that in no event shall the Eurodollar Rate be less than 3.50%.

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

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

“Excess Cash Flow” means, for any period, an amount equal to:

(a) the sum, without duplication, of:

(i) Consolidated Net Income for such period,

(ii) an amount equal to the amount of all non-cash charges (including depreciation and amortization) to the extent deducted in arriving at such Consolidated Net Income,

(iii) an amount equal to the aggregate net non-cash loss on Dispositions by the Borrower and its Subsidiaries during such period (other than sales of inventory in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income,

(iv) decreases in Consolidated Working Capital for such period, and

(v) consolidated cash receipts in respect of Swap Contracts during such fiscal year to the extent not otherwise included in Consolidated Net Income; and

minus

(b) the sum, without duplication among the clauses below and without duplication of any amounts otherwise deducted in arriving at Consolidated Net Income for such period, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income,

(ii) an amount equal to the aggregate net non-cash gain on Dispositions by the Borrower and its Subsidiaries during such period (other than sales of inventory in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income,

(iii) the amount of Capital Expenditures made in cash during such period pursuant to Section 7.16, except to the extent that such Capital Expenditures were financed with the proceeds of any issuance or sale of Equity Interests of Holdings, with the proceeds of any Indebtedness of Holdings, the Borrower or any Subsidiary, or, to the extent not otherwise included in Consolidated Net Income, with the proceeds of any Disposition of property of or any Casualty Event with respect to property of Holdings, the Borrower or any Subsidiary,

(iv) the aggregate amount of all principal payments or prepayments of Indebtedness of the Borrower and its Subsidiaries (including (A) the principal component of payments in respect of Capital Lease Obligations, (B) the amount of any voluntary prepayment of Loans pursuant to Section 2.03(a) and any voluntary prepayment of First Lien Term Loans, (C) the amount of any mandatory prepayment of Loans pursuant to Section 2.03(b)(ii) and any mandatory prepayment of First Lien Term Loans required as a result of any Disposition, in each case to the extent required due to a Disposition that resulted in an increase to Consolidated Net Income and not in excess of the amount of such increase and (D) the amount of any repayment of Loans pursuant to Section 2.04 and any regularly scheduled principal payments of the First Lien Term Loans, but excluding all other prepayments of the Loans and the First Lien Term Loans) made during such period (other than in respect of any revolving credit facility to the extent there is not an equivalent permanent reduction in commitments thereunder), except to the extent that such payments or prepayments were financed with the proceeds of any issuance or sale of Equity Interests of Holdings, with the proceeds of any other Indebtedness of Holdings, the Borrower or any Subsidiary, or, to the extent not otherwise included in Consolidated Net Income, with the proceeds of any Disposition of property of or any Casualty Event with respect to property of Holdings, the Borrower or any Subsidiary,

(v) increases in Consolidated Working Capital for such period,

(vi) the amount of Permitted Acquisitions made during such period pursuant to Section 7.02, except to the extent that such Permitted Acquisitions were financed with the proceeds of any issuance or sale of Equity Interests of Holdings, with the proceeds of any Indebtedness of Holdings to the extent such proceeds were not applied to reduce the Obligations of the Borrower or the Subsidiaries, or, to the extent not otherwise included in Consolidated Net Income, with the proceeds of any Disposition of property of or any Casualty Event with respect to property of Holdings, the Borrower or the Subsidiaries to the extent such proceeds were not applied to reduce the Obligations, and

(vii) cash expenditures in respect of Swap Contracts during such fiscal year to the extent not deducted in arriving at such Consolidated Net Income.

“Exchange Act” means the Securities Exchange Act of 1934.

"Exchange Rate" means on any day with respect to any currency other than Dollars, the rate at which such currency may be exchanged into Dollars, as set forth at approximately 11:00 a.m. (London time) on such day on the Reuters World Currency Page for such currency; in the event that such rate does not appear on any Reuters World Currency Page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower, or, in the absence of such agreement, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 10:00 a.m. (New York City time) on such date for the purchase of Dollars for delivery two Business Days later.

"Excluded Taxes" has the meaning specified in Section 3.01(f).

"Facility" means the term loan facility made available to the Borrower pursuant to this Agreement.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank on the Business Day next succeeding such day; *provided* that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to JPMorgan Chase Bank on such day on such transactions as determined by the Administrative Agent.

"First Lien Agent" means JPMorgan Chase Bank, N.A., in its capacity as administrative agent under the First Lien Credit Agreement, together with any of its successors.

"First Lien Cap Amount" means \$~~1,325,000,000~~ 325,000,000.

"First Lien Cash Management Obligations" means the "Cash Management Obligations" as defined in the First Lien Credit Agreement.

"First Lien Credit Agreement" means the Credit Agreement, dated as of [____], among the Borrower, Holdings, the German Borrower party thereto, the lenders party thereto and the First Lien Agent, as amended, supplemented, waived or otherwise modified, renewed, refunded, replaced or refinanced in whole or in part from time to time.

"First Lien Obligations" means the "First Priority Obligations" as defined in the Intercreditor Agreement.

"First Lien Secured Hedge Agreements" means the "Secured Hedge Agreements" as defined in the First Lien Credit Agreement.

"First Lien Term Loan Documents" means the "Loan Documents" as defined in the First Lien Credit Agreement.

"First Lien Term Loans" means the term loans converted or continued, as the case may be, pursuant to the First Lien Credit Agreement.

“First Priority Obligations Payment Date” has the meaning specified in the Intercreditor Agreement.

“Foreign Benefit Arrangement” means any employee benefit arrangement mandated by non-U.S. law that is maintained or contributed to by any Loan Party or any ERISA Affiliate.

“Foreign Jurisdiction Deposit” means a deposit or Guarantee incurred in the ordinary course of business and required by any Governmental Authority in a foreign jurisdiction as a condition of doing business in such jurisdiction.

“Foreign Lender” has the meaning specified in Section 10.15.

“Foreign Plan” means each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) that is not subject to U.S. law and is maintained or contributed to by any Loan Party or any ERISA Affiliate.

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

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

“GAAP” means generally accepted accounting principles in the United States of America, as in effect from time to time; *provided*, that for purposes of Section 7.10, GAAP shall be determined on the basis of such principles in effect on the date hereof and consistent with those used in the preparation of the most recent audited financial statements of the Borrower prior to the date hereof.

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

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

“Group Member” means Holdings, the Borrower and the Subsidiaries.

“Guarantee” means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or monetary other obligation of the payment or performance of such Indebtedness or other monetary obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or monetary other obligation is

assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); *provided* that the term “Guarantee” shall not include endorsements for collection or deposit, in either case in the ordinary course of business. The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“**Guarantee and Security Agreement**” means, collectively, the Second Lien Guarantee and Security Agreement executed by Holdings, the Borrower and each Guarantor, substantially in the form of Exhibit E, together with each other security agreement supplement executed and delivered pursuant to Section 6.11.

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

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

“**Hazardous Materials**” means all explosive or radioactive substances or wastes and all hazardous or toxic substances or wastes or pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to or that could give rise to any liability under any Environmental Law.

“**Hedge Bank**” means any Person that is a “Lender” or an “Affiliate” of a “Lender” under the First Lien Credit Agreement or a Lender or an Affiliate of a Lender hereunder at the time it enters into a Secured Hedge Agreement, in its capacity as a party thereto; provided that, prior to the First Priority Obligations Payment Date, any “Hedge Bank” under the First Lien Credit Agreement shall not be a Hedge Bank hereunder.

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

“**Holdings Operating Expenses**” means operating costs and expenses incurred by Holdings, which will include, in any event, without limitation, costs and expenses incurred in connection with (in each case to the extent not otherwise prohibited by the Loan Documents and in each case other than interest or dividend payments or expenses related to activities not permitted to be undertaken by Holdings pursuant to Section 7.15) (i) the maintenance of its existence and the ownership of an investment in the Borrower or the Subsidiaries of the Borrower, and the exercise of rights and performance of obligations in connection therewith, (ii) the entry into, and exercise of rights and performance of obligations in respect of (A) contracts and agreements with or for the benefit of officers, directors and employees of Holdings, the Borrower or any Subsidiary relating to their employment or directorships, (B) insurance policies and related contracts and agreements, (C) any equity subscription agreements, registration rights agreements, voting and other stockholder agreements, engagement letters, underwriting agreements and other agreements in respect of Equity Interests of Holdings or any offering, issuance or sale thereof, and (D) the Loan Documents, (iii) the offering, issuance and sale of Equity Interests of Holdings, (iv) the filing of registration statements, and compliance with applicable reporting and other obligations, under federal, state or other securities laws, (v) the performance of obligations under and compliance by Holdings with its certificate of incorporation and by-laws or any applicable law, ordinance, regulation rule, order, judgment, decree or permit, including, without limitation, as a result of or in connection with the activities of the Borrower or

the Subsidiaries of the Borrower, (vi) payment of taxes for the benefit of or relating to Holdings, the Borrower and its Subsidiaries and (vii) other activities incidental or related to the foregoing.

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) the maximum amount (after giving effect to any prior drawings or reductions which may have been reimbursed) of all letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;
- (c) net obligations of such Person under any Swap Contract;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable in the ordinary course of business, (ii) any earn-out obligation until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP, (iii) deferred or equity compensation arrangements payable to directors, officers or employees and (iv) any such obligation to pay royalties or commissions to authors);
- (e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (f) all Attributable Indebtedness;
- (g) all obligations of such Person to purchase, redeem, retire or otherwise acquire for value any Disqualified Equity Interests; and
- (h) all Guarantees of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall (A) include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person’s liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included as Indebtedness on a consolidated balance sheet of the Borrower in accordance with GAAP and (B) in the case of Holdings and its Subsidiaries, exclude (i) customer deposits and advances and interest payable thereon in the ordinary course of business consistent with past practice and in accordance with customary trade terms and other obligations incurred in the ordinary course of business consistent with past practice through credit on an open account basis customarily extended to such Person, (ii) statutory or other legal requirements to make deposits in connection with sweepstakes or similar contests, or surety bonds or letters of credit posted pursuant to such requirements and (iii) obligations under overdraft arrangements with banks outside the United States incurred in the ordinary course of business consistent with past practice to cover working capital needs. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (i) the

aggregate unpaid amount of such Indebtedness and (ii) the fair market value of the property encumbered thereby as determined by such Person in good faith.

“**Indemnified Liabilities**” has the meaning specified in Section 10.05.

“**Indemnitees**” has the meaning specified in Section 10.05.

“**Information**” has the meaning specified in Section 10.08.

“**Intellectual Property**” has the meaning set forth in the Guarantee and Security Agreement.

“**Intercreditor Agreement**” means the Intercreditor Agreement to be executed and delivered by the Administrative Agent, the First Lien Agent and the Loan Parties, substantially in the form of Exhibit I, as amended, modified and supplemented from time to time.

“**Interest Election**” means a Cash Election or PIK Election, as applicable.

“**Interest Election Notice**” has the meaning specified in Section 2.05(b).

“**Interest Payment Date**” means, (a) as to any Eurodollar Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date applicable to such Loan, (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date applicable to such Loan and (c) as to any Loan, the date of any repayment or prepayment made in respect thereof.

“**Interest Period**” means (a), as to each Eurodollar Rate Loan, the period commencing on the date such Eurodollar Rate Loan is disbursed or converted to or continued as a Eurodollar Rate Loan and ending on the date three months thereafter; *provided that*:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(iii) no Interest Period shall extend beyond the Maturity Date applicable to such Eurodollar Rate Loan; and

(b) for purposes of Section 2.05(b), as to each Base Rate Loan, initially, the period commencing on the date such Base Rate Loan is disbursed or converted to a Base Rate Loan and ending on the immediately succeeding Interest Payment Date and, thereafter, the period commencing on any Interest Payment Date and ending on the immediately succeeding Interest Payment 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 Equity Interests or debt or other

securities of another Person or (b) a loan, advance or capital contribution to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. 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.

“J.H. Cohn” means J.H. Cohn, LLP, and any successor thereto.

“JPMorgan Chase Bank” means JPMorgan Chase Bank, N.A., and any successor thereto.

“Junior Financing” has the meaning specified in Section 7.14.

“Junior Financing Documentation” means any documentation governing any Junior Financing.

“Laws” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities.

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

“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“Lien” means any mortgage, pledge, hypothecation, collateral assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or preferential arrangement intended to create a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capital Lease Obligation having substantially the same economic effect as any of the foregoing). For the avoidance of doubt, “Lien” shall not include any license or sublicense of Intellectual Property, provided that such license or sublicense is not intended to create a security interest of any kind or nature whatsoever.

“Liquidity” means, on any date of determination, the sum, without duplication, of (i) the cash and Cash Equivalents which are not subject to any Liens (other than Liens permitted pursuant to Section 7.01(a), (b), (c), (d), (e), (f), (k), (l), (u) or (bb))) held by the Borrower and its Subsidiaries on such date plus (ii) the aggregate amount which is available to be drawn under any loan agreements or other lines of credit of the Borrower and its Subsidiaries on such date (for the avoidance of doubt, after giving effect to any limitation on borrowing thereunder, including but not limited to the absence of default or other non-compliance with covenants).

“Loans” has the meaning specified in Section 2.01 and shall include any interest which is paid-in-kind and added to the principal amount of the Loans in accordance with Section 2.05(b).

“Loan Amount”: as to any Lender, the principal amount of Loans issued to such Lender on the Closing Date set forth under the heading “Loan Amount” opposite such Lender’s name on Schedule 2.01. The original aggregate Loan Amount of the Lenders is \$300,000,000.

“Loan Documents” means, collectively, (i) this Agreement, (ii) the Notes, (iii) the Collateral Documents and (iv) the Intercreditor Agreement.

“Loan Parties” means, collectively, the Borrower and each Guarantor.

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

“Material Adverse Effect” means any event, development or circumstance that, individually or in the aggregate, has had or could reasonably be expected to have a material adverse effect on (a) the business, property, operations or financial condition of Holdings and its Subsidiaries, taken as a whole, in each case, other than such effects attributable to the commencement of the Cases or the existence of prepetition claims and of defaults under such claims to the extent stayed by virtue of the commencement of the Cases or (b) the validity or enforceability of this Agreement or any of the other Loan Documents or the rights and remedies of the Administrative Agent and the Lenders hereunder or thereunder.

“Material Real Property” means, on any date, any real property owned by any Loan Party with a fair market value as of such date in excess of \$2,500,000.

“Maturity Date” means March 31, 2014.

“Maximum Rate” has the meaning specified in Section 10.10.

“Moelis” means Moelis & Company LLC, and any successor thereto.

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

“Mortgage” means, collectively, the deeds of trust, trust deeds, hypothecs and mortgages made by the Loan Parties in favor or for the benefit of the Administrative Agent on behalf of the Lenders substantially in the form of Exhibit G (with such changes as may be customary to account for local Law matters or as otherwise may be reasonably satisfactory to the Administrative Agent), and any other mortgages executed and delivered pursuant to Section 6.11.

“Mortgaged Properties” has the meaning specified in paragraph (g) of the definition of Collateral and Guarantee Requirement.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Loan Party or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

“Net Cash Proceeds” means:

(a) with respect to the Disposition of any asset by Holdings, the Borrower or any Subsidiary or any Casualty Event, an amount equal to (i) the sum of cash and Cash Equivalents received in connection with such Disposition or Casualty Event (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and, with respect to any Casualty Event, any insurance proceeds or condemnation awards in respect of such Casualty Event actually received by or paid to or for the account of Holdings, the Borrower or any Subsidiary) less (ii) the sum of (A) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness that is secured by a Lien expressly permitted hereunder (and not junior to the Liens securing the Obligations) on the asset subject to such Disposition or Casualty Event and that is

required to be repaid (and is repaid) in connection with such Disposition or Casualty Event (other than Indebtedness under the Loan Documents and other than to the extent the holders of such Indebtedness are required to turnover any such proceeds to any or all of the Lenders), (B) the out-of-pocket expenses (including attorneys' fees, investment banking fees, accounting fees and other professional and transactional fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary commissions and fees) actually incurred by Holdings, the Borrower or such Subsidiary in connection with such Disposition or Casualty Event, (C) taxes paid or reasonably estimated to be actually payable in connection therewith, (D) any reserve for adjustment in accordance with GAAP in respect of (x) the sale price of such asset or assets and (y) any liabilities associated with such asset or assets and retained by Holdings, the Borrower or any Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction, and (E) the Borrower's reasonable estimate of payments required to be made with respect to unassumed liabilities relating to the assets involved within one year of such Disposition or Casualty Event and it being understood that "Net Cash Proceeds" shall include (i) any cash or Cash Equivalents received upon the Disposition of any non-cash consideration received by Holdings, the Borrower or any Subsidiary in any such Disposition, (ii) an amount equal to any reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in clause (C) or (D) above at the time of such reversal and (iii) an amount equal to any estimated liabilities described in clause (E) above that have not been satisfied in cash within three hundred and sixty-five (365) days after such Disposition or Casualty Event; *provided* that notwithstanding anything to the contrary, (x) no proceeds realized in a single Disposition or series of related Dispositions shall constitute Net Cash Proceeds unless such Net Cash Proceeds shall exceed \$1,000,000 and (y) no such proceeds shall constitute Net Cash Proceeds under this clause (a) in any fiscal year until the aggregate amount of all such Net Cash Proceeds in such fiscal year shall exceed \$5,000,000 (and thereafter only net cash proceeds in excess of such amount shall constitute Net Cash Proceeds under this clause (a)); and

(b) with respect to the incurrence or issuance of any Indebtedness or Equity Interests by Holdings, the Borrower or any Subsidiary, an amount equal to (i) the sum of the cash received in connection with such incurrence or issuance less (ii) the attorneys' fees, investment banking fees, accountants' fees, underwriting or other discounts, commissions, costs and other out-of-pocket fees, transfer and similar taxes and other customary out-of-pocket expenses actually incurred by Holdings, the Borrower or such Subsidiary in connection with such incurrence or issuance.

"Non-Cash Charges" has the meaning specified in the definition of the term "Consolidated EBITDA".

"Non-Consenting Lenders" has the meaning specified in Section 3.07(c).

"Note" means a promissory note of the Borrower payable to any Lender, in substantially the form of Exhibit B hereto, evidencing the aggregate Indebtedness of the Borrower to such Lender resulting from the Loans of such Lender.

"Not Otherwise Applied" means, with reference to any amount of Net Cash Proceeds of any transaction or event or of Excess Cash Flow, that such amount (a) was not required to be applied to prepay the "Loans" under the First Lien Credit Agreement or the Loans pursuant to Section 2.05(b), and (b) was not previously applied in determining the permissibility of a transaction under the "Loan Documents" under the First Lien Credit Agreement or under the Loan Documents hereunder where such permissibility was contingent on receipt of such amount or utilization of such amount for a specified purpose. The

Borrower shall promptly notify the Administrative Agent of any application of such amount as contemplated by clause (b) above.

“**NPL**” means the National Priorities List under CERCLA.

“**Obligations**” means all (a) monetary obligations of any Loan Party and its Subsidiaries arising under any Loan Document, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or Subsidiary of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding, (b) monetary obligations of any Loan Party arising under any Secured Hedge Agreement and (c) monetary Cash Management Obligations. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and of their Subsidiaries to the extent they have obligations under the Loan Documents) include (x) the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities, and other amounts payable by any Loan Party or its Subsidiaries under any Loan Document and (y) the obligation of any Loan Party or any of its Subsidiaries to reimburse any amount in respect of any of the foregoing that any Lender, in its sole discretion, may elect to pay or advance on behalf of such Loan Party or such Subsidiary.

“**Organization Documents**” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“**Other Taxes**” has the meaning specified in Section 3.01(b).

“**Outstanding Amount**” means, with respect to the Loans, on any date, the aggregate principal amount thereof outstanding after giving effect to any deemed making and prepayments or repayments of Loans occurring on such date.

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

“**Participating Member State**” means each state so described in any EMU Legislation.

“**Patriot Act**” means the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)).

“**PBGC**” means the Pension Benefit Guaranty Corporation.

“**Pension Plan**” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA and is sponsored or maintained by any Loan Party or any ERISA Affiliate or to which any Loan Party or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five (5) plan years.

“Permitted Acquisition” has the meaning specified in Section 7.02(i).

“Permitted Equity Issuance” means any sale or issuance of any Qualified Equity Interests of Holdings to the extent not prohibited hereunder or any capital contribution made to Holdings in respect of its Qualified Equity Interests.

“Permitted Holdings Distributions” means payments, dividends or distributions by the Borrower to Holdings in order to pay Holdings Operating Expenses.

“Permitted Refinancing” means, with respect to any Person, any modification, refinancing, refunding, renewal or extension of any Indebtedness of such Person; *provided that* (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed or extended, except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees and expenses reasonably incurred, in connection with such modification, refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder, (b) such modification, refinancing, refunding, renewal or extension has a final maturity date equal to or later than the final maturity date of the Indebtedness so modified, refinanced, refunded, renewed or extended, (c) such modification, refinancing, refunding, renewal or extension has a Weighted Average Life to Maturity equal to or greater than the remaining Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, renewed or extended, (d) at the time thereof, no Default or Event of Default shall have occurred and be continuing, (e) to the extent such Indebtedness being modified, refinanced, refunded, renewed or extended is subordinated in right of payment to the Obligations or subordinated in respect of any Collateral, such modification, refinancing, refunding, renewal or extension is subordinated in right of payment to the Obligations and/or subordinated in respect of such Collateral, as the case may be, on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed or extended and (e) the terms and conditions (including, if applicable, as to collateral but excluding as to subordination, interest rate or other pricing terms and redemption or prepayment premium) of any such modified, refinanced, refunded, renewed or extended Indebtedness, taken as a whole, are not materially less favorable to the Lenders than the terms and conditions of the Indebtedness being modified, refinanced, refunded, renewed or extended.

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

“Petition Date” has the meaning specified in the preliminary statements to this Agreement.

“PIK Election” has the meaning specified in Section 2.05(b).

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) (other than a Multiemployer Plan, Foreign Plan or Foreign Benefit Arrangement) established by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Section 302 or Title IV of ERISA, any ERISA Affiliate.

“Pledged Debt” has the meaning specified in the Guarantee and Security Agreement.

“Pledged Equity” has the meaning specified in the Guarantee and Security Agreement.

“Prepetition Credit Agreement” means the Credit Agreement, dated as of March 2, 2007, among Doctor Acquisition Co., RDA Holding Co., the Borrower, the overseas borrowers party

thereto, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent, as amended, supplemented, waived or otherwise modified from time to time prior to the effectiveness of the First Lien Credit Agreement.

“Prepetition Credit Agreement Claims” has the meaning specified in the Reorganization Plan.

“Prepetition Euro Term Loans” means the Euro Term Loans (as defined in the Prepetition Credit Agreement as in effect on the date hereof).

“Pro Forma Balance Sheet” has the meaning set forth in Section 5.05(a)(ii).

“Pro Rata Share” means, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount equal to the outstanding Loans of such Lender and the denominator of which is the amount equal to the aggregate outstanding Loans at such time.

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

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

“Reorganization Plan” has the meaning specified in the preliminary statements to this Agreement.

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

“Required Lenders” means, as of any date of determination, Lenders having more than 50% of the sum of the aggregate Outstanding Amount of all Loans.

“Requirement of Law” means, as to any Person, any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

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

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of Holdings, the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to Holdings or the Borrower’s stockholders, partners or members (or the equivalent Persons thereof).

“Restructuring Support Agreement” means the Restructuring Support Agreement, dated as of August 17, 2009, among the Debtors and the Consenting Lenders and Consenting Shareholders specified therein, as amended, supplemented, waived or otherwise modified from time to time.

“Rollover Amount” has the meaning set forth in Section 7.16(b).

“S&P” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto.

“Same Day Funds” means immediately available funds.

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

“Secured Hedge Agreement” means any Swap Contract permitted under Article VII that is entered into by and between the Borrower or any Subsidiary and (i) any “Hedge Bank” under the First Lien Credit Agreement or (ii) any Hedge Bank hereunder, in each case at the time such Secured Hedge Agreement is entered into. Notwithstanding the foregoing, prior to the First Priority Obligations Payment Date, any Swap Contract that is a “Secured Hedge Agreement” under the First Lien Credit Agreement shall not be a Secured Hedge Agreement hereunder.

“Secured Parties” means, collectively, the Administrative Agent, the other Agents, the Lenders, the Hedge Banks, each holder of Cash Management Obligations, any Affiliate of a Lender to which Obligations are owed, the Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.01(b).

“Securities Act” means the Securities Act of 1933.

“Security Agreement Supplement” has the meaning specified in the Guarantee and Security Agreement.

“Solvent” and **“Solvency”** mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable 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, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they become absolute and matured and (d) such Person is not engaged in any business, as conducted on such date and as proposed to be conducted following such date, for which such Person’s property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the 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.

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

“Specified Lenders” means, collectively, the Lenders from time to time comprising the steering committee designated by JPMorgan Chase Bank in connection with this Agreement and the First Lien Credit Agreement and the ongoing administration of the Cases; *provided*, that there shall at no time be more than ten Lenders on the steering committee (counting all affiliated Lenders as one for purposes of this proviso).

“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the relevant Lender is subject for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurodollar Rate Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Sterling” means the lawful currency of the United Kingdom.

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

“Supplemental Administrative Agent” has the meaning specified in Section 9.13 and “Supplemental Administrative Agents” shall have the corresponding meaning.

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

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

“Taxes” has the meaning specified in Section 3.01(a).

“Test Period” means, for any determination under this Agreement, the period of four consecutive fiscal quarters of the Borrower then last ended.

“Threshold Amount” means \$18,000,000.

“Total Leverage Ratio” means, with respect to any Test Period, the ratio as of the last day of such Test Period of (a) Consolidated Total Debt as of the last day of such Test Period to (b) Consolidated EBITDA for such Test Period.

“Type” means, with respect to a Loan, its character as a Base Rate Loan or a Eurodollar Rate Loan.

“Unaudited Financial Statements” means the unaudited consolidated balance sheets and related statements of income, stockholders’ equity and cash flows of the Borrower and its consolidated Subsidiaries for each subsequent fiscal quarter ended after the fiscal year ended June 30, 2009, in each case for which and to the extent such financial statements are available prior to the Closing Date.

“Uniform Commercial Code” means the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

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

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (ii) the then outstanding principal amount of such Indebtedness.

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

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

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

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

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

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

(iv) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(c) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

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

Section 1.03 Accounting Terms. (a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein.

(b) Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under Statement of Financial Accounting Standards 159 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of Holdings, the Borrower or any of their respective Subsidiaries at “fair value”, as defined therein.

Section 1.04 Rounding. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement (or required to be satisfied in order for a specific action to be permitted under this Agreement) shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

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

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

Section 1.07 Timing of Payment of Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day.

Section 1.08 Currency Equivalents Generally. Any amount specified in this Agreement (other than in Articles II, IX, and X) or any of the other Loan Documents to be in Dollars shall also include the equivalent of such amount in any currency other than Dollars, such equivalent amount to be determined at the rate of exchange quoted by the Reuters World Currency Page for the applicable currency at 11:00 a.m. (London time) on such day (or, in the event such rate does not appear on any Reuters World Currency Page, by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower, or, in the absence of such agreement, such rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its

foreign currency exchange operations in respect of such currency are then being conducted, at or about 10:00 a.m. (New York City time) on such date for the purchase of Dollars for delivery two Business Days later). Notwithstanding the foregoing, for purposes of determining compliance with Section 7.01, 7.02 and Section 7.03 with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Indebtedness or Investment is incurred; *provided* that, for the avoidance of doubt, the foregoing provisions of this Section 1.08 shall otherwise apply to such Sections, including with respect to determining whether any Indebtedness or Investment may be incurred at any time under such Sections.

Section 1.09 Change of Currency. Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify with the Borrower's consent to appropriately reflect a change in currency of any country and any relevant market conventions or practices relating to such change in currency.

ARTICLE II

THE LOANS

Section 2.01 The Loans. Subject to the terms and conditions hereof and to give effect to the Reorganization Plan and provide for the repayment, in part, of the Prepetition Credit Agreement Claims, each Lender listed on Schedule 2.01 shall be deemed, on the Closing Date, to have made term loans (the "**Loans**") to the Borrower hereunder in an amount equal to such Lender's Loan Amount. For the avoidance of doubt, the Loans deemed made pursuant to the preceding sentence shall be made without any actual funding and shall initially be Eurodollar Rate Loans. The amount of Loans of each Lender on the Closing Date shall be equal to the amount set forth on Schedule 2.01, which amount shall be conclusive absent manifest error. After the Closing Date, the Loans may from time to time be Eurodollar Rate Loans or Base Rate Loans, as determined by the Borrower and notified to the Administrative Agent in accordance with Section 2.02. Amounts repaid or prepaid on account of the Loans may not be reborrowed.

Section 2.02 Conversions and Continuations of Loans. (a) Each conversion of Loans from one Type to the other, and each continuation of Eurodollar Rate Loans shall be made upon the Borrower's notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than (i) 12:30 p.m. (New York time) three (3) Business Days prior to the requested date of any continuation of Eurodollar Rate Loans or any conversion of Base Rate Loans to Eurodollar Rate Loans, and (ii) 12:30 p.m. (New York time) one (1) Business Day prior to the requested date of any conversion of Eurodollar Rate Loans to Base Rate Loans. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Conversion or Continuation Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each conversion to or continuation of Eurodollar Rate Loans shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof. Each conversion to Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof. Each Conversion or Continuation Notice (whether telephonic or written) shall specify (i) whether the Borrower is requesting a conversion of Loans from one Type to the other, or a continuation of Eurodollar Rate Loans, (ii) the requested date of the conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be converted or continued, (iv) the Type of Loans to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to give a timely notice requesting a conversion or continuation, then the Loans shall be continued as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Loans.

(b) Following receipt of a Conversion or Continuation Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation described in Section 2.02(a).

(c) Except as otherwise provided herein, a Eurodollar Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurodollar Rate Loan unless the Borrower pays the amount due, if any, under Section 3.05 in connection therewith.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurodollar Rate Loans upon determination of such interest rate. The determination of the Eurodollar Rate by the Administrative Agent shall be conclusive in the absence of manifest error. At any time that Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in JPMorgan Chase Bank prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect.

(f) The failure of any Lender to make the Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Loan to be made by such other Lender on the date of any Borrowing.

Section 2.03 Prepayments. (a) *Optional*. The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty; provided that (1) such notice must be received by the Administrative Agent not later than 12:30 p.m. (New York time) (A) three (3) Business Days prior to any date of prepayment of Eurodollar Rate Loans and (B) on the date of prepayment of Base Rate Loans; (2) any prepayment of Eurodollar Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof; and (3) any prepayment of Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$500,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Pro Rata Share of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurodollar Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 3.05. Each prepayment of the Loans pursuant to this Section 2.03(a) shall be paid to the Lenders in accordance with their respective Pro Rata Shares.

(b) *Mandatory*. (i) Within ten (10) days after the earlier of (A) the date by which financial statements are required to be delivered pursuant to Section 6.01(a) and (B) the date such financial statements are actually delivered, the Borrower shall cause to be prepaid an aggregate amount of Loans in an amount equal to the ECF Percentage of Excess Cash Flow, if any, for the fiscal year covered by such financial statements (commencing with the 2010 fiscal year ~~ended June 30, 2010~~).

(ii) (A) If (x) Holdings, the Borrower or any Subsidiary Disposes of any property or assets (other than any Disposition of any property or assets permitted by Section 7.05(a), (b), (c), (d), (e), (f), (g),

(h) or (m)) or (y) any Casualty Event occurs, which in the aggregate results in the realization or receipt by Holdings, the Borrower or such Subsidiary of Net Cash Proceeds, the Borrower shall cause to be prepaid on or prior to the date which is five (5) Business Days after the date of the realization or receipt of such Net Cash Proceeds, Loans in an amount equal to 100% of all Net Cash Proceeds received; *provided* that no such prepayment shall be required pursuant to this Section 2.03(b)(ii)(A) with respect to such portion of such Net Cash Proceeds that the Borrower shall have, on or prior to such date, given written notice to the Administrative Agent of its intent to reinvest in accordance with Section 2.03(b)(ii)(B);

(B) With respect to any Net Cash Proceeds realized or received with respect to any Disposition that is subject to the prepayment requirements in Section 2.03(b)(ii)(A) or any Casualty Event, at the option of the Borrower, the Borrower may reinvest (x) all or any portion of such Net Cash Proceeds received on account of Dispositions or (y) all or any portion of such Net Cash Proceeds received on account of Casualty Events to acquire or repair assets useful in the Borrower's or a Subsidiary's business (subject to the limitations of this Agreement) within 270 days following receipt of such Net Cash Proceeds or within 360 days following receipt of such Net Cash Proceeds if and to the extent the amount of such applicable Net Cash Proceeds is contractually committed to be reinvested in the Borrower's or a Subsidiary's business as of the 270th day following receipt thereof; *provided* that an amount equal to any such Net Cash Proceeds shall be applied within five (5) Business Days after such Net Cash Proceeds cannot be so reinvested or the Borrower reasonably determines that such Net Cash Proceeds are no longer intended to be so reinvested to the prepayment of the Loans as set forth in this Section 2.03.

(iii) If Holdings, the Borrower or any Subsidiary incurs or issues any Indebtedness or Equity Interests (other than Indebtedness expressly permitted to be incurred or issued pursuant to Section 7.03 and Equity Interests issued to Holdings, the Borrower or any Subsidiary in accordance with Section 7.02 (in each case, without prejudice to the restrictions therein)), the Borrower shall cause to be prepaid Loans in an amount equal to 100% of all Net Cash Proceeds received therefrom, in the case of Indebtedness, and 75% of all Net Cash Proceeds received therefrom, in the case of Equity Interests, in each case on or prior to the date which is five (5) Business Days after the receipt of such Net Cash Proceeds.

(iv) The Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Loans required to be made pursuant to this Section 2.03(b) at least three (3) Business Days prior to the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment. The Administrative Agent will promptly notify each Lender of the contents of the Borrower's prepayment notice and of such Lender's Pro Rata Share of the prepayment.

(v) Notwithstanding anything to the contrary in this Agreement, the amount of any mandatory prepayment of Loans required pursuant to this Section 2.03(b) shall be reduced by the aggregate amount on a Dollar-for-Dollar basis by which the First Lien Term Loans are required to be prepaid in accordance with the First Lien Credit Agreement.

(c) Each prepayment of Loans pursuant to this Section 2.03 shall be paid to the Lenders in accordance with their respective Pro Rata Shares.

(d) All prepayments under this Section 2.03 shall be made together with, in the case of any such prepayment of a Eurodollar Rate Loan on a date other than the last day of an Interest Period therefor, any amounts owing in respect of such Eurodollar Rate Loan pursuant to Section 3.05.

Section 2.04 Repayment of Loans. The Loan of each Lender shall mature in a single installment on the Maturity Date.

Section 2.05 Interest. (a) Subject to the provisions of Section 2.05(c), (i) each Eurodollar Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurodollar Rate for such Interest Period plus the Applicable Rate; and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate.

(b) Notwithstanding anything to the contrary contained in this Section 2.05, upon the occurrence and during the continuance of a Consolidated EBITDA Event, a portion of the Applicable Rate on the Loans equal to 6.5% per annum for the succeeding Interest Period shall be paid, at the Borrower's option, in cash (a "**Cash Election**") or by increasing the principal amount of the outstanding Loans (a "**PIK Election**"), in each case in arrears on the applicable Interest Payment Date. The Borrower shall be permitted to make a Cash and/or a PIK Election with respect to all or any portion of the Outstanding Amount of the Loans not less than \$~~1,000,000~~ 50,000,000. The Borrower shall make an Interest Election with respect to each Interest Period by providing prior irrevocable notice of such election (the "**Interest Election Notice**") by no later than 11:00 A.M., New York City time, on the tenth day preceding the beginning of such Interest Period. Each Interest Election Notice shall include information to the following effect: (1) the relevant Interest Payment Date, (2) whether the Borrower is making a Cash Election or a PIK Election and (3) if the Borrower makes a PIK Election, the increase in the principal amount of the Loans to be effective upon the relevant Interest Payment Date as a result of such payment and the principal amount of the Loans outstanding as of such Interest Payment Date after giving effect to such payment. If the Borrower shall fail to give timely notice as described above in this paragraph, the Borrower shall be deemed to have elected to continue with the last Interest Election made for the previous Interest Period.

(c) If any Event of Default shall have occurred and be continuing, all outstanding Loans and other Obligations under the Loan Documents (whether or not overdue at such time) shall bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(d) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Notwithstanding the foregoing, interest accruing pursuant to Section 2.05(c) shall be payable from time to time on demand. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

Section 2.06 Fees. The Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

Section 2.07 Computation of Interest and Fees. All computations of interest for Base Rate Loans when the Base Rate is determined by JPMorgan Chase Bank's "prime rate" shall be made on the basis of a year of three hundred and sixty-five (365) or three hundred and sixty-six (366) days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a three hundred and sixty (360) day year and actual days elapsed. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.09(a), bear interest for one (1) day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error. The Administrative Agent shall, upon the reasonable request of the Borrower, deliver to the Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate pursuant to Section 2.05(a).

Section 2.08 Evidence of Indebtedness. (a) The Loans made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be *prima facie* evidence 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 Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.08(a), and by each Lender in its account or accounts pursuant to Section 2.08(a), shall be *prima facie* evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; *provided* that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

Section 2.09 Payments Generally. (a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in Same Day Funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 2:00 p.m. (New York time) shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

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

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

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

(ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in Same Day Funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent (the “**Compensation Period**”) at a rate per annum equal to the Federal Funds Rate from time to time in effect. When such Lender makes payment to the Administrative Agent (together with all accrued interest thereon), then such payment amount (excluding the amount of any interest which may have accrued and been paid in respect of such late payment) shall constitute such Lender’s Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent’s demand therefor, the Administrative Agent may make a demand therefor upon the Borrower, and the Borrower shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its commitments hereunder or to prejudice any rights which the Administrative Agent or the Borrower may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.09(c) shall be conclusive, absent manifest error.

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

(e) The obligations of the Lenders hereunder to make Loans are several and not joint. The failure of any Lender to make any Loan on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan.

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

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 8.03. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but at the direction of Required Lenders shall, elect to distribute such funds to each of the Lenders in accordance with such

Lender's Pro Rata Share of the Outstanding Amount of all Loans outstanding at such time, in repayment or prepayment of such of the outstanding Loans or other Obligations then owing to such Lender.

Section 2.10 Sharing of Payments. If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Loans made by it any payment (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans pro rata with each of them; provided that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 10.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.10 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.10 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

Section 2.11 Intercreditor Agreement. Each Lender hereby authorizes and directs the Administrative Agent to enter into the Intercreditor Agreement on its behalf and hereby approves and agrees to be bound by the terms of the Intercreditor Agreement (including the subordination of its Liens on the Collateral to the extent provided in the Intercreditor Agreement). Notwithstanding anything to the contrary herein, in the case of any inconsistency between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall govern. The Lenders acknowledge that the First Lien Term Loans, the First Lien Secured Hedge Agreements, the First Lien Cash Management Obligations and related obligations are secured by the Collateral, subject to the Intercreditor Agreement, and that the First Lien Obligations may be increased from time to time including by amendment.

Section 2.12 No Requirement of Lender Signatures. Each Lender listed on Schedule 2.01 shall be a party hereto in accordance with the Reorganization Plan and, pursuant to the Reorganization Plan, is bound hereby without the requirement of any Lender to execute a signature page hereto.

ARTICLE III

TAXES, INCREASED COSTS PROTECTION AND ILLEGALITY

Section 3.01 Taxes. (a) Except as provided in this Section 3.01, any and all payments by the Borrower to or for the account of any Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and all liabilities (including additions to tax, penalties and interest) with respect thereto, excluding in the case of each Agent and each Lender, taxes

imposed on or measured by its net income or overall gross income (including branch profits), and franchise (and similar) taxes imposed on it in lieu of net income taxes, by the jurisdiction (or any political subdivision thereof) under the Laws of which such Agent or such Lender, as the case may be, is organized, managed or controlled or maintains a Lending Office or conducts business in (except to the extent the business is considered to be conducted in such jurisdiction solely as a result of such Agent or such Lender having executed, delivered or performed its obligations or received a payment under, or enforced, any Loan Document) and all liabilities (including additions to tax, penalties and interest) with respect thereto. All non-excluded taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and liabilities described in the immediately preceding sentence are hereinafter referred to as “**Taxes**”. If the Borrower shall be required by any Laws to deduct any Taxes or Other Taxes from or in respect of any sum payable under any Loan Document to any Agent or any Lender, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01), each of such Agent and such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions, (iii) the Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Laws, and (iv) within thirty (30) days after the date of such payment (or, if receipts or evidence are not available within thirty (30) days, as soon as possible thereafter), the Borrower shall furnish to such Agent or Lender (as the case may be) the original or a certified copy of a receipt evidencing payment thereof to the extent such a receipt is issued therefor. If the Borrower fails to pay any Taxes or Other Taxes when due to the appropriate taxing authority or fails to remit to any Agent or any Lender the required receipts or other required documentary evidence, the Borrower shall indemnify such Agent and such Lender for any incremental taxes, interest or penalties that may become payable by such Agent or such Lender arising out of such failure. Notwithstanding anything to the contrary in this Section 3.01(a), the Borrower shall not be required to increase the sum payable under any Loan Document, or to indemnify any Lender or Agent, with respect to Taxes that (i) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower), are United States withholding taxes imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new lending office), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such withholding taxes or (ii) are withholding taxes that are excluded pursuant to Section 10.15(d).

(b) In addition, the Borrower agrees to pay any and all present or future stamp, court or documentary taxes and any other excise, property, intangible or mortgage recording taxes or charges or similar levies which arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document (hereinafter referred to as “**Other Taxes**”).

(c) The Borrower agrees to indemnify each Agent and each Lender for (i) the full amount of Taxes and Other Taxes (including any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section 3.01) paid by such Agent and such Lender and (ii) any liability (including additions to tax, penalties, interest and expenses) arising therefrom or with respect thereto, in each case whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided such Agent or Lender, as the case may be, provides the Borrower with a written statement thereof setting forth in reasonable detail the basis and calculation of such amounts, which statement shall be conclusive absent manifest error. Payment under this Section 3.01(c) shall be made within thirty (30) days after the date such Lender or such Agent makes a demand therefor.

(d) If any Lender or Agent determines, in its reasonable discretion, that it has received a refund in respect of any Taxes or Other Taxes as to which indemnification or additional amounts have been paid to it by the Borrower pursuant to this Section 3.01, it shall promptly remit such refund (but only to the

extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Taxes or Other Taxes giving rise to such refund plus any interest included in such refund by the relevant taxing authority attributable thereto) to the Borrower, net of all reasonable out-of-pocket expenses of the Lender or Agent, as the case may be and without interest (other than any interest paid by the relevant taxing authority with respect to such refund); *provided* that the Borrower, upon the request of the Lender or Agent, as the case may be, agrees promptly to return such refund (plus any penalties, interest or other charges imposed by the relevant taxing authority) to such party in the event such party is required to repay such refund to the relevant taxing authority. Such Lender or Agent, as the case may be, shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (*provided* that such Lender or Agent may delete any information therein that such Lender or Agent deems confidential). Nothing herein contained shall interfere with the right of a Lender or Agent to arrange its tax affairs in whatever manner it thinks fit or to make available its tax returns or disclose any information relating to its tax affairs or any computations in respect thereof or require any Lender or Agent to do anything that would prejudice its ability to benefit from any other refunds, credits, reliefs, remissions or repayments to which it may be entitled.

(e) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (c) with respect to such Lender it will, if requested by the Borrower, use commercially reasonable efforts to designate another Lending Office for any Loan affected by such event; *provided* that such efforts are made on terms that, in the sole judgment exercised in good faith of such Lender, cause such Lender and its Lending Office(s) to suffer no economic, legal or regulatory disadvantage, and *provided further* that nothing in this Section 3.01(e) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.01(a) or (c).

(f) Each Lender shall indemnify the Administrative Agent, within 10 days after demand therefor, for the full amount of any taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges with respect to which the Borrower is not required to pay additional amounts pursuant to Section 3.01(a) ("**Excluded Taxes**") attributable to such Lender that are payable or paid by the Administrative Agent, and interest, penalties and reasonable expenses arising therefrom or with respect thereto, whether or not such Excluded Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error.

Section 3.02 Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Eurodollar Rate Loans, or to determine or charge interest rates based upon the Eurodollar Rate, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue Eurodollar Rate Loans or to convert Base Rate Loans to Eurodollar Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all Eurodollar Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Loans to such day, or promptly, if such Lender may not lawfully continue to maintain such Eurodollar Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted and all amounts due, if any, in connection with such prepayment or conversion under Section 3.05. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

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

Section 3.04 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurodollar Rate Loans. (a) If any Lender determines (in good faith) that as a result of the introduction of or any change in or in the interpretation of any Law, in each case after the date hereof, or such Lender's compliance therewith, there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining Eurodollar Rate Loans, or a reduction in the amount received or receivable by such Lender in connection with any of the foregoing (excluding for purposes of this Section 3.04(a) any such increased costs or reduction in amount resulting from (i) Taxes or Other Taxes (as to which Section 3.01 shall govern), (ii) changes in the basis of taxation of overall net income or overall gross income (including branch profits), and franchise (and similar) taxes imposed in lieu of net income taxes, by the United States or any foreign jurisdiction or any political subdivision of either thereof under the Laws of which such Lender is organized or maintains a Lending Office and (iii) reserve requirements contemplated by Section 3.04(c)), then from time to time within ten (10) days after demand by such Lender setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such increased cost or reduction.

(b) If any Lender determines (in good faith) that the introduction of any Law regarding capital adequacy or any change therein or in the interpretation thereof, in each case after the date hereof, or compliance by such Lender or such Lender's holding company therewith, has the effect of reducing the rate of return on the capital of such Lender or such Lender's holding company (or its Lending Office) as a consequence of its obligations hereunder to a level below that which such Lender or such Lender's holding company could have achieved but for such introduction, change or compliance (taking into consideration its policies with respect to capital adequacy, by an amount deemed by such Lender to be material, then from time to time upon demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender or such Lender's holding company for such reduction within ten (10) days after receipt of such demand.

(c) The Borrower shall pay to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits, additional interest on the unpaid principal amount of each Eurodollar Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive in the absence of manifest error), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the funding of the Eurodollar Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary,

to the nearest five decimal places) equal to the actual costs allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error) which in each case shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least ten (10) days' prior notice (with a copy to the Administrative Agent, and which notice shall specify the Statutory Reserve Rate, if any, applicable to such Lender) of such additional interest or cost from such Lender. If a Lender fails to give notice ten (10) days prior to the relevant Interest Payment Date, such additional interest or cost shall be due and payable ten (10) days from receipt of such notice.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 3.04 shall not constitute a waiver of such Lender's right to demand such compensation, *provided* that the Borrower shall not be required to compensate a Lender pursuant to Section 3.04(a), (b) or (c) for any such increased cost or reduction incurred more than 180 days prior to the date that such Lender demands, or notifies the Borrower of its intention to demand, compensation therefor, *provided further* that, if the circumstance giving rise to such increased cost or reduction is retroactive, then such 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(e) If any Lender requests compensation under this Section 3.04, then such Lender will, if requested by the Borrower, use commercially reasonable efforts to designate another Lending Office for any Loan affected by such event; *provided* that such efforts are made on terms that, in the reasonable judgment of such Lender, cause such Lender and its Lending Office(s) to suffer no material economic, legal or regulatory disadvantage, and *provided further* that nothing in this Section 3.04(e) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.04(a), (b), (c) or (d) or any rights of the Borrower pursuant to Section 3.07.

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

(a) any continuation, conversion, payment or prepayment of any Eurodollar Rate Loan on a day other than the last day of the Interest Period for such Loan or (in each case, whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise), or

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

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

Section 3.06 Matters Applicable to All Requests for Compensation. (a) Any Agent or any Lender claiming compensation under this Article III shall deliver a certificate to the Borrower setting forth the additional amount or amounts to be paid to it hereunder which shall be conclusive in the absence of manifest error.

(b) With respect to any Lender's claim for compensation under Section 3.01, 3.02, 3.03 or 3.04, the Borrower shall not be required to compensate such Lender for any amount incurred more than 180 days prior to the date that such Lender notifies the Borrower of the event that gives rise to such claim; *provided* that, if the circumstance giving rise to such claim is retroactive, then such 180-day period referred to above shall be extended to include the period of retroactive effect thereof. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a

copy to the Administrative Agent), suspend the obligation of such Lender to make or continue from one Interest Period to another Eurodollar Rate Loans, or to convert Base Rate Loans into Eurodollar Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(c) shall be applicable); *provided* that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) If the obligation of any Lender to make or continue from one Interest Period to another any Eurodollar Rate Loan, or to convert Base Rate Loans into Eurodollar Rate Loans shall be suspended pursuant to Section 3.06(b) hereof, such Lender's Eurodollar Rate Loans shall be automatically converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for such Eurodollar Rate Loans (or, in the case of an immediate conversion required by Section 3.02, on such earlier date as required by Law) and, unless and until such Lender gives notice as provided below that the circumstances specified in Section 3.01, 3.02, 3.03 or 3.04 hereof that gave rise to such conversion no longer exist:

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

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

(d) If any Lender gives notice to the Borrower (with a copy to the Agent) that the circumstances specified in Section 3.01, 3.02, 3.03 or 3.04 hereof that gave rise to the conversion of such Lender's Eurodollar Rate Loans pursuant to this Section 3.06 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurodollar Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurodollar Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Eurodollar Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods).

Section 3.07 Replacement of Lenders under Certain Circumstances. (a) If at any time (i) the Borrower becomes obligated to pay additional amounts or indemnity payments described in Section 3.01 or 3.04 as a result of any condition described in such Sections or any Lender ceases to make Eurodollar Rate Loans as a result of any condition described in Section 3.02 or Section 3.04, (ii) any Lender becomes a Defaulting Lender or (iii) any Lender becomes a Non-Consenting Lender, then the Borrower may, upon prior written notice to the Administrative Agent and such Lender, replace such Lender by causing such Lender to (and such Lender shall be obligated to) assign pursuant to Section 10.07(b) (with the assignment fee to be paid by the Borrower in such instance), at par, all of its rights and obligations under this Agreement to one or more Eligible Assignees; *provided* that neither the Administrative Agent nor any Lender shall have any obligation to the Borrower to find a replacement Lender or other such Person.

(b) Any Lender being replaced pursuant to Section 3.07(a) above shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's outstanding Loans, and (ii) deliver any Notes evidencing such Loans to the Borrower or Administrative Agent. Pursuant to such Assignment and Assumption, (A) the assignee Lender shall acquire all or a portion, as the case may be, of the assigning Lender's outstanding Loans, (B) all obligations of the Borrower owing to the assigning Lender relating to the Loans so assigned shall be paid in full by the assignee Lender to such assigning Lender concurrently with such assignment and assumption and (C) upon such payment and, if so requested by the assignee Lender, delivery to the assignee Lender of the appropriate Note or Notes executed by the Borrower, the

assignee Lender shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender.

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

Section 3.08 Survival. All of the Borrower’s obligations under this Article III shall survive the repayment of all Obligations hereunder.

ARTICLE IV

CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

The effectiveness of this Agreement is subject to the satisfaction or waiver of the following conditions precedent:

(a) The Administrative Agent’s receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) or electronic copies (following promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, if any, each in form and substance reasonably satisfactory to the Administrative Agent:

(i) counterparts of this Agreement, duly executed by Holdings, the Borrower and the Administrative Agent;

(ii) a Note executed by the Borrower in favor of each Lender that has requested a Note at least two Business Days in advance of the Closing Date;

(iii) each Collateral Document set forth on Schedule 1.01A, duly executed by each Loan Party thereto;

(iv) the Intercreditor Agreement, duly executed by the Administrative Agent, the First Lien Agent and each Loan Party thereto;

(v) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party on the Closing Date and with appropriate insertions and attachments, including the certificate of incorporation (or equivalent thereof) of each Loan Party that is a corporation certified by the relevant authority of the jurisdiction of organization of such Loan Party and a long form good standing certificate (or equivalent thereof) for each Loan Party from its jurisdiction of organization;

(vi) opinion from Kirkland & Ellis LLP, special New York counsel to Holdings substantially in the form of Exhibit F;

(vii) except as set forth in Section 6.16, evidence that all insurance (including title insurance) required to be maintained pursuant to the Loan Documents and the First Lien Term Loan Documents has been obtained and is in effect and is satisfactory to the Administrative Agent; and

(viii) a certificate signed by a Responsible Officer of the Borrower certifying compliance with the conditions set forth in paragraphs (h) and (i) of Article IV.

(b) The Administrative Agent shall have received the results of recent lien searches (or the equivalent thereof in foreign jurisdictions) conducted in the jurisdictions in which the Loan Parties are organized (to the extent available), and such search shall reveal no liens on any of the assets of the Loan Parties except for liens permitted by Section 7.01 or discharged on or prior to the Closing Date pursuant to documentation reasonably satisfactory to the Administrative Agent or arrangements reasonably satisfactory to the Administrative Agent that have been made to have such liens discharged promptly following the Closing Date.

(c) The Lenders and the Administrative Agent shall have received payment in full in cash of all costs, fees and expenses due and payable (including those required to be paid to such Lenders hereunder and under the DIP Credit Agreement and the Prepetition Credit Agreement) and invoiced before the Closing Date.

(d) The Lenders shall have received (i) the Audited Financial Statements and Unaudited Financial Statements (ii) the Pro Forma Balance Sheet and (iii) projections through ~~June 30,~~ June 30, 2014, in form reasonably satisfactory to the Administrative Agent, accompanied by a certificate of a Responsible Officer of the Borrower stating that such projections are based on estimates, information and assumptions believed by management of the Borrower to be reasonable on the Closing Date and that to his or her best knowledge, such Responsible Officer (not in his or her individual capacity, but solely as a Responsible Officer) has no reason to believe that such projections are incorrect or misleading in any material respect (it being understood and agreed that the projections are subject to significant uncertainties and contingencies, many of which are beyond the control of the Responsible Officer and that no assurance can be given that any of the projections will be realized, and that such projections are not a guarantee of financial performance and actual results may differ from the projected results and such differences may be material).

(e) The First Lien Agent, as bailee for the Secured Parties, shall have received certificates, if any, representing the Pledged Equity referred to therein, to the extent required therein, accompanied by undated stock powers executed in blank and instruments evidencing the Pledged Debt indorsed in blank; and

(f) the Administrative Agent shall have received satisfactory evidence that all other actions, recordings and filings that the Administrative Agent may deem reasonably necessary to satisfy the Collateral and Guarantee Requirement shall have been taken, completed or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent.

(g) The Bankruptcy Court shall have entered an order confirming the Reorganization Plan, which order (the “**Confirmation Order**”) (i) shall confirm a Reorganization Plan that is substantially consistent with the Restructuring Support Agreement, which Reorganization Plan has been accepted by Class 3 as designated thereunder, (ii) shall authorize the Facility and (iii) shall be in full force and effect and not have been reversed, modified, amended, stayed or vacated and shall not be subject to a motion to stay or subject to appeal or petition for review, rehearing or certiorari, and the period for appealing the Confirmation Order shall have elapsed. The Effective Date shall have occurred (and all conditions precedent thereto as set forth in the Confirmation Order shall have been satisfied (or shall be concurrently satisfied) or waived by the Required Lenders).

(h) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects as of the Closing Date; *provided* that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided, further* that, any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct in all respects on such respective dates.

(i) No Default or Event of Default shall have occurred and be continuing.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Each Loan Party hereby jointly and severally represents and warrants to the Agents and the Lenders that:

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

Section 5.02 Authorization; No Contravention. Subject, in the case of any Debtor, to the entry by the Bankruptcy Court of the Confirmation Order and to the terms thereof, the execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party, and the consummation of the transactions contemplated thereby, are within such Loan Party’s corporate or other powers, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) violate the terms of any of such Person’s Organization Documents, (b) violate or result in any breach of, or the creation of any Lien under (other than Liens created by the Loan Documents, the First Lien Term Loan Documents and other Liens permitted by Section 7.01), or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or which is binding upon such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any Law; except with respect to any violation or breach (but not creation of Liens or payments) referred to in each case of clauses (b) and (c) above, to the extent that such violation or breach could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.03 Governmental Authorization; Other Consents. Subject, in the case of any Debtor, to the entry by the Bankruptcy Court of the Confirmation Order and to the terms thereof, no approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with (a) the execution, delivery or performance by any Loan Party of this Agreement or any other Loan Document, (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents or (c) the perfection or maintenance of the Liens created

under the Collateral Documents (including the priority thereof, other than filings referred to in Section 5.18) or (d) the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, in each case of the foregoing, except for the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect.

Section 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of each Loan Party that is party thereto, enforceable against such Loan Party in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 5.05 Financial Statements; No Material Adverse Effect. (a) (i) The Audited Financial Statements and the Unaudited Financial Statements fairly present in all material respects the consolidated financial condition of the Borrower and its consolidated Subsidiaries as of the dates thereof and their consolidated results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the periods covered thereby, except as otherwise expressly noted therein and, in the case of the Unaudited Financial Statements, subject to normal year-end audit adjustments and the absence of footnotes.

(ii) The unaudited pro forma consolidated balance sheet of the Borrower and its consolidated Subsidiaries as of [____], 2009 (including the notes thereto) (the “**Pro Forma Balance Sheet**”) has been prepared giving effect (as if such events had occurred on such date) to (i) the occurrence of the Effective Date, (ii) the First Lien Term Loans deemed converted or continued, as applicable on the Closing Date and the use of proceeds thereof, (iii) the Loans deemed made on the Closing Date and (iv) the payment of fees and expenses in connection with the foregoing. The Pro Forma Balance Sheet has been prepared in good faith, based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof, and presents fairly in all material respects in accordance with GAAP the pro forma consolidated financial position of the Borrower and its consolidated Subsidiaries as of [____], 2009 and their pro forma consolidated results of operations for the periods covered thereby, assuming that the events specified in the preceding sentence had actually occurred at such date.

(b) Since [____], 2009, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

(c) The forecasts of consolidated balance sheets, income statements and cash flow statements of the Borrower and its consolidated Subsidiaries which have been furnished to the Administrative Agent prior to the Closing Date have been prepared in good faith on the basis of assumptions believed by the Borrower to be reasonable at the time made, it being understood that forecasts are, by their nature, inherently uncertain and actual results may vary from such forecasts and that such variations may be material.

Section 5.06 Litigation. As of the Closing Date, there are no actions, suits, proceedings, claims, investigations or disputes pending or, to the knowledge of the Borrower, threatened in writing or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Subsidiaries or against any of their properties or revenues that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.07 No Default. Neither the Borrower nor any Subsidiary is in default under or with respect to any Contractual Obligation that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

Section 5.08 Ownership of Property; Liens. Each Loan Party and each of its Subsidiaries has good title to, or valid leasehold interests in, or (in the case of Intellectual Property) a license or other right to use, or easements or other limited property interests in, all its properties and assets material to the ordinary conduct of its business (including all Material Real Property), free and clear of all Liens except for minor defects in title that do not materially interfere with its ability to conduct its business or to utilize such assets for their intended purposes and Liens permitted by Section 7.01.

Section 5.09 Environmental Compliance. (a) There are no claims, actions, suits, or proceedings alleging potential liability or responsibility for violation of, or otherwise relating to, any Environmental Law or to Hazardous Materials that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (i) none of the properties currently or, to the knowledge of the Borrower, formerly owned, leased or operated by any Loan Party or any of its Subsidiaries is listed or proposed for listing on the NPL or on the CERCLIS or any analogous foreign, state or local list or, to the knowledge of the Borrower, is adjacent to any such property; and (ii) Hazardous Materials have not been released, discharged or disposed of by any Person on any property currently or, to the knowledge of the Borrower, formerly owned, leased or operated by any Loan Party or any of its Subsidiaries and Hazardous Materials have not otherwise been released, discharged or disposed of by any of the Loan Parties and their Subsidiaries at any other location, in each case in a manner that could reasonably be expected to result in Environmental Liability.

(c) The properties owned, leased or operated by the Borrower and the Subsidiaries do not contain any Hazardous Materials in amounts or concentrations which (i) constitute a violation of, (ii) require remedial action under, or (iii) could give rise to liability under, Environmental Laws, which violations, remedial actions and liabilities, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

(d) Neither the Borrower nor any of its Subsidiaries is undertaking, either individually or together with other potentially responsible parties, any investigation or assessment or remedial or response action relating to any actual or threatened release, discharge or disposal of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law, except for such investigation or assessment or remedial or response action that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(e) All Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, by any Loan Party or any of its Subsidiaries, any property currently or formerly owned or operated by any Loan Party or any of its Subsidiaries have been disposed of in a manner not reasonably expected to result, individually or in the aggregate, in a Material Adverse Effect.

(f) Except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, none of the Loan Parties and their Subsidiaries has contractually assumed any liability or obligation of any other Person under or relating to any Environmental Law.

Section 5.10 Taxes. The Borrower and its applicable Subsidiaries have filed all U.S. Federal income and material state and other material tax returns and reports required to be filed, and have paid all

U.S. Federal income and material state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which reserves have been provided to the extent required by GAAP.

Section 5.11 ERISA Compliance. (a) Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect each Plan is in compliance with the applicable provisions of ERISA, the Code and other Federal or state Laws.

(b) (i) Other than the commencement of the Cases, which is a Reportable Event, no ERISA Event has occurred during the five year period prior to the date on which this representation is made or deemed made with respect to any Pension Plan; (ii) neither any Loan Party nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iii) neither any Loan Party nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would reasonably be expected to result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; (iv) neither any Loan Party nor any ERISA Affiliate has engaged in a transaction that could reasonably be expected to be subject to Sections 4069 or 4212(c) of ERISA; and (v) the present value of all benefit liabilities under each Pension Plan does not exceed the aggregate current value of the assets of such Pension Plan (based on those assumptions used to fund the Pension Plans); except, with respect to each of the foregoing clauses (i) through (v) of this Section 5.11(b), as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(c) Except as specifically disclosed in Schedule 5.11(c), (i) all employer and employee contributions required by applicable law or by the terms of any Foreign Benefit Arrangement or Foreign Plan have been made, or, if applicable, accrued in accordance with normal accounting practices; (ii) the accrued benefit obligations of each Foreign Plan (based on those assumptions used to fund such Foreign Plan) with respect to all current and former participants do not exceed the assets of such Foreign Plan; (iii) each Foreign Plan that is required to be registered has been registered and has been maintained in good standing with applicable regulatory authorities; and (iv) each such Foreign Benefit Arrangement and Foreign Plan is in compliance (A) with all material provisions of applicable law and all material applicable regulations and published interpretations thereunder with respect to such Foreign Benefit Arrangement or Foreign Plan and (B) with the terms of such plan or arrangement; except, with respect to each of the foregoing clauses (i) through (iv) of this Section 5.11(c), as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.12 Subsidiaries; Equity Interests. As of the Closing Date, neither Holdings nor any Loan Party has any Subsidiaries other than those specifically disclosed in Schedule 5.12, and all of the outstanding Equity Interests owned by the Loan Parties in such Subsidiaries have been validly issued, are fully paid and nonassessable and all Equity Interests owned by Holdings or a Loan Party are owned free and clear of all Liens except (i) those created under the Collateral Documents and (ii) any Lien that is permitted under Section 7.01. As of the Closing Date, Schedule 5.12 (a) sets forth the name and jurisdiction of each Subsidiary, (b) sets forth the ownership interest of Holdings, the Borrower and any other Subsidiary in each Subsidiary, including the percentage of such ownership and (c) identifies each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral and Guarantee Requirement.

Section 5.13 Margin Regulations; Investment Company Act. (a) The Borrower is not engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board), or extending credit for the purpose

of purchasing or carrying margin stock, and no proceeds of any Borrowings will be used for any purpose that violates Regulation U.

(b) None of the Borrower, any Person Controlling the Borrower, or any Subsidiary is required to be registered as an “investment company” under the Investment Company Act of 1940.

Section 5.14 Disclosure. No report, financial statement, certificate or other written information furnished by or on behalf of any Loan Party to any Agent, any Lender or the Bankruptcy Court, in each case in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished) when taken as a whole contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; *provided* that, with respect to projected financial information and pro forma financial information, the Loan Parties represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time made; it being understood that projections are, by their nature, inherently uncertain and such projections may vary from actual results and that such variances may be material.

Section 5.15 Intellectual Property; Licenses, Etc. Each of the Loan Parties and their Subsidiaries owns, or licenses or possesses the valid right to use, all Intellectual Property that is material to the operation of the business of the Borrower and its Subsidiaries, taken as a whole, as currently conducted, and, without known conflict with the rights of any Person, except to the extent such conflicts, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. To the best knowledge of the Borrower, the conduct of the business of the Borrower and its Subsidiaries, taken as a whole, as currently conducted, does not infringe upon, misappropriate or otherwise violate any Intellectual Property of any Person and, to the knowledge of the Borrower, no Person infringes upon, misappropriates or otherwise violates any Intellectual Property owned or exclusively licensed by the Borrower and its Subsidiaries, except in each case of the foregoing as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. No written or, to the knowledge of the Borrower, oral claim or litigation regarding any Intellectual Property owned or exclusively licensed by any Loan Party or its Subsidiaries is pending or, to the knowledge of the Loan Parties, threatened against any Loan Party or Subsidiary, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.16 Solvency. On the Closing Date, after giving effect to the Effective Date and the incurrence of all Indebtedness and Obligations being incurred in connection herewith and therewith, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

Section 5.17 Labor Matters. Except as, in the aggregate, could not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against any Loan Party pending or, to the knowledge of the Borrower, threatened; (b) hours worked by and payment made to employees of each Loan Party have not been in violation of the Fair Labor Standards Act or any other applicable Laws dealing with such matters; and (c) all payments due from any Loan Party on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant party.

Section 5.18 Collateral. (a) The Guarantee and Security Agreement is effective to create in favor of the Administrative Agent, for the benefit of the Lenders, legal, valid and enforceable (subject to the effect of Debtor Relief Laws and subject to general principles of equity) security interests in the Collateral described therein and proceeds thereof to the extent governed by the Uniform Commercial Code. In the case of the Pledged Equity or Pledged Debt described in any of the Collateral Documents, when stock

certificates representing such Pledged Equity or promissory notes representing such Pledged Debt are delivered to the First Lien Agent, as bailee, together with the necessary endorsements, and in the case of the other Collateral described in any of the Collateral Documents, when financing statements and other filings specified on Schedule 5.18 in appropriate form are filed in the offices specified on Schedule 5.18, the Guarantee and Security Agreement shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and the proceeds thereof, as security for their respective Obligations, in each case to the extent a Lien on such Collateral can be perfected by the filing of a financing statement, by filings to be made in respect of Intellectual Property in the United States Patent and Trademark Office and the United States Copyright Office or, in the case of the Pledged Equity and Pledged Debt, by possession or control, in each case prior and superior in right to any other Person (except (x) in the case of Collateral constituting Pledged Equity and Pledged Debt, nonconsensual Liens permitted by Section 7.01 and the Liens created by the First Lien Term Loan Documents and (y) in the case of Collateral other than Pledged Equity and Pledged Debt, Liens permitted by Section 7.01 and the Liens created by the First Lien Term Loan Documents); provided, however, that additional filings may be required in the United States Patent and Trademark Office and the United States Copyright Office to perfect the security interest in Intellectual Property acquired after the date hereof.

(b) Each of the Mortgages, when duly executed and delivered, is effective to create in favor of the Administrative Agent, for the benefit of the Lenders, a legal, valid and enforceable (subject to the effect of Debtor Relief Laws and subject to general principles of equity) Lien on the Mortgaged Properties described therein and proceeds thereof, and when the Mortgages are filed in the appropriate recording offices, each such Mortgage shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in the Mortgaged Properties and the proceeds thereof, as security for the Obligations (as defined in the relevant Mortgage), in each case prior and superior in right to any other Person (except that the security interest created in such real property and the Mortgaged Property may be subject to the Liens permitted by Section 7.01.

Section 5.19 Regulation H. No Mortgage encumbers improved real property that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, as amended.

Section 5.20 Certain Documents. The Borrower has delivered to the Administrative Agent a complete and correct copy of the First Lien Term Loan Documents, including any amendments, supplements or modifications with respect to any of the foregoing.

ARTICLE VI

AFFIRMATIVE COVENANTS

So long as any Loan or other Obligation hereunder which is accrued and payable shall remain unpaid or unsatisfied, each Loan Party shall, and shall cause each of its Subsidiaries to:

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

(a) as soon as available, but in any event within ninety (90) days after the end of each fiscal year of the Borrower (or 120 days after the end of the 2010 fiscal year) beginning with the first fiscal year ending after the Closing Date, a consolidated and consolidating (by region) balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such fiscal year, and the related consolidated and consolidating (by region) statements of income or operations, stockholders' equity and cash flows for such

fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all prepared in accordance with GAAP (other than the consolidating financial statements, which shall be substantially in the form delivered to the Administrative Agent prior to the Closing Date), audited (in the case of the consolidated financial statements) and accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any “going concern” or like qualification, exception or explanatory paragraph or any qualification or exception arising out of the scope of the audit;

(b) as soon as available, but in any event within forty-five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Borrower (or sixty (60) days after the end of the fiscal quarter first ending after the Closing Date), an unaudited consolidated and consolidating (by region) balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such fiscal quarter, and the related unaudited (i) consolidated and consolidating (by region) statements of income or operations for such fiscal quarter and for the portion of the fiscal year then ended and (ii) consolidated and consolidating (by region) statements of cash flows for such fiscal quarter and for the portion of the fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year for the applicable entities and the corresponding portion of the previous fiscal year for the applicable entities, all certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the consolidated financial condition, results of operations, stockholders’ equity and cash flows of the Borrower and its consolidated Subsidiaries in accordance with GAAP (other than the consolidating financial statements, which shall be substantially in the form delivered to the Administrative Agent prior to the Closing Date), subject only to normal year-end audit adjustments and the absence of footnotes;

(c) as soon as available, and in any event no later than thirty (30) days after the end of each fiscal month (or forty-five (45) days after the end of the third, sixth, ninth and twelfth fiscal month in each fiscal year), commencing with the fiscal month ended in [_____], ~~2009, 2010~~, an unaudited consolidated and consolidating (by region) balance sheet of the Borrower and its consolidated Subsidiaries as at the end of such fiscal month, and the related unaudited (i) consolidated and consolidating (by region) statements of income or operations for such fiscal month and for the portion of the fiscal year then ended and (ii) consolidated and consolidating (by region) statements of cash flows for such fiscal month and the portion of the fiscal year then ended, setting forth in each case in comparative form the figures for the previous year, all certified by a Responsible Officer of the Borrower as being fairly presented in all material respects in accordance with GAAP (other than the consolidating financial statements, which shall be substantially in the form delivered to the Administrative Agent prior to the Closing Date), subject only to normal year-end audit adjustments and the absence of footnotes; and

(d) as soon as available, and in any event no later than ninety (90) days after the end of each fiscal year of the Borrower (or 120 days after the end of the 2010 fiscal year) beginning with the first fiscal year ending ~~June 30, 2010~~, after the Closing Date, a reasonably detailed consolidated budget for the following fiscal year (including a projected consolidated balance sheet of the Borrower and its consolidated Subsidiaries as of the end of the following fiscal year, the related consolidated statements of projected cash flow and projected income and a summary of the material underlying assumptions applicable thereto) (collectively, the “**Projections**”), which Projections shall be certified by a Responsible Officer of the Borrower as being prepared based upon good faith estimates and assumptions that are believed by such Responsible Officer to be reasonable at the time made and that such Responsible Officer is not aware of (x) any information contained in such Projections which is false or misleading in any material respect or (y) any omission of information which causes such Projections to be false or misleading in any material respect (it being understood and agreed that the Projections are subject to significant uncertainties and contingencies, many of which are beyond the control of the Responsible Officer and that no assurance can

be given that any of the Projections will be realized, and that the Projections are not a guarantee of financial performance and actual results may differ from the projected results and such differences may be material).

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.01 may be satisfied with respect to financial information of the Borrower and its consolidated Subsidiaries by furnishing (A) the applicable financial statements of Holdings (or any direct or indirect parent of Holdings) or (B) the Borrower's or Holdings' (or any direct or indirect parent thereof), as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC; *provided* that, with respect to each of clauses (A) and (B), (i) to the extent such information relates to Holdings (or a parent thereof), such information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to Holdings (or such parent), on the one hand, and the information relating to the Borrower and its consolidated Subsidiaries on a standalone basis, on the other hand and (ii) to the extent such information is in lieu of information required to be provided under Section 6.01(a), such materials are accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "going concern" or like qualification, exception or explanatory paragraph or any qualification or exception arising out of the scope of the audit.

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

(a) simultaneously with the delivery of the financial statements referred to in Section 6.01(a), a certificate of its independent registered public accounting firm certifying such financial statements and stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default under Section 7.10 or, if any such Default or Event of Default shall exist, stating the nature and status of such event (which certificate may be limited to the extent required by such firm's general accounting and auditing rules, policies or guidelines);

(b) simultaneously with the delivery of the financial statements referred to in Section 6.01(a), (b) and (c), a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower;

(c) simultaneously with the delivery of the financial statements referred to in Section 6.01(a) and (b), a narrative discussion and analysis of the financial condition and results of operations of the Borrower and its Subsidiaries (including, without limitation, with respect to Dispositions, cost savings, facility closures, litigation, contingent liabilities and other matters as the Administrative Agent or any Lender through the Administrative Agent may from time to time reasonably request) for the applicable period, and for the period from the beginning of the then current fiscal year to the end of such period, in each case, as compared to the portion of the Projections covering such periods;

(d) simultaneously with the delivery of the financial statements referred to in Section 6.01(a) and (b), supplemental financial and operating metrics with respect to the applicable period substantially in the form delivered to the Administrative Agent prior to the Closing Date;

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

~~(f)~~ (e) promptly after the furnishing thereof, copies of any material requests or material notices received by any Loan Party (other than in the ordinary course of business) or material statements or material reports furnished to any holder of debt securities of any Loan Party or of any of its Subsidiaries in a principal amount greater than the Threshold Amount or to any holder of public or preferred equity securities of any Loan Party and not otherwise required to be furnished to the Lenders pursuant to any other clause of this Section 6.02;

~~(g)~~ (f) no later than five (5) Business Days prior to the effectiveness thereof, copies of substantially final drafts of any proposed amendment, supplement, waiver or other modification, and any replacement, with respect to any First Lien Term Loan Document;

~~(h)~~ (g) together with the delivery of each Compliance Certificate pursuant to Section 6.02(b), to the extent not previously disclosed to the Administrative Agent, (i) a description of any change in the name or the jurisdiction of organization of any Loan Party, (ii) a certificate of a Responsible Officer of the Borrower (A) setting forth any updates to Schedule 6 of the Guarantee and Security Agreement or confirming there has been no change in the information required to be reflected in such Schedule since the date of the Guarantee and Security Agreement or the date of the most recent certificate delivered pursuant to this clause (ii), (B) identifying, based on Collateral owned, and Laws in effect, as of the date of such certificate, all Uniform Commercial Code financing statements (including fixture filings, as applicable) or other appropriate filings, recordings or registrations, including all refilings, rerecordings and reregistrations, containing a description of the Collateral that will be required to be filed of record within the 18 months following the date of such certificate, to the extent necessary and required under the Collateral Documents to protect and perfect the security interests under the Collateral Documents for a period of not less than 18 months after the date of such certificate (except as noted therein with respect to any continuation statements to be filed within such period) and (C) setting forth a reasonably detailed calculation of Excess Cash Flow for such fiscal year; *provided*, that the delivery of such certificate is only required at the time of the delivery of each Compliance Certificate required to be delivered in connection with Section 6.01(a) or (b), (iii) a description of any Person that has become a Group Member, in each case, since the date of the most recent list delivered pursuant to this Section 6.02(~~fh~~) (or, in the case of the first such list so delivered, since the Closing Date) and (iv) a reconciliation of operating income of the Borrower and its Subsidiaries to Consolidated EBITDA (which reconciliation may be provided as part of the calculations included in the applicable Compliance Certificate); and

~~(i)~~ (h) promptly, subject to applicable confidentiality requirements of Group Members, such additional financial or other information as the Administrative Agent or any Lender through the Administrative Agent may from time to time reasonably request.

—— Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(~~de~~) or (~~ef~~) 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 in Section 10.02; (ii) on which such documents are posted on the Borrower's behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); or (iii) such documents are publicly available on the SEC's website pursuant to the SEC's EDGAR system; provided that: (i) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance the Borrower shall be required to provide paper copies of the Compliance Certificates required by

Section 6.02(b) to the Administrative Agent. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

~~Update Calls.~~ At least once per fiscal quarter, at such times as the Borrower and the Administrative Agent shall agree, the Borrower shall host a conference call (with a question and answer period) with the chief executive officer and chief financial officer of the Borrower and such other members of senior management of the Borrower as the Borrower deems appropriate and the Administrative Agent and the Lenders and their respective representatives and advisors to discuss the performance of the business, strategic alternatives and other issues as the Administrative Agent may reasonably request.

~~Notices.~~ Promptly after any Responsible Officer of a Loan Party obtains knowledge thereof, notify the Administrative Agent (for prompt notification to each Lender):

~~(a) of the occurrence of any Default or Event of Default; and~~

~~(b) of any development or event that has had or could reasonably be expected to have a Material Adverse Effect.~~

Each notice pursuant to this Section shall be accompanied by a written statement of a Responsible Officer of the Borrower (x) that such notice is being delivered pursuant to Section 6.04(a) or (b) (as applicable) and (y) setting forth details of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto.

~~Payment of Obligations.~~ Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its material obligations of whatever nature (including, but not limited to, all material taxes, fees, assessments, and other governmental charges), except where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and any required reserves in conformity with GAAP with respect thereto have been provided on the books of the relevant Group Member.

~~Preservation of Existence, Etc.~~ Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization except (i) in the case of any Subsidiary of the Borrower, where the failure to perform such obligations, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, or (ii) in a transaction permitted by Section 7.04 or 7.05, and (b) take all reasonable action to maintain all privileges (including its good standing), material rights, material permits, material licenses and material franchises necessary or desirable in the normal conduct of its business, except (i) to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect or (ii) pursuant to a transaction permitted by Section 7.04 or 7.05.

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

~~Maintenance of Insurance.~~ Maintain with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such

amounts (after giving effect to any self insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Borrower and its Subsidiaries) and with deductible levels as are customarily carried under similar circumstances by such other Persons and ensure that the Administrative Agent is an additional insured and/or loss payee under such liability and property insurance as reasonably requested by the Administrative Agent.

~~_____ Compliance with Laws. Comply with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except if the failure to comply therewith could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.~~

~~_____ Inspection Rights; Books and Records; Discussions. Keep proper books of record and account in which full, true and correct entries in all material respects are made of all dealings and transactions in relation to its business and activities and permit representatives of the Administrative Agent or any Lender to visit and inspect any of its properties and examine and make abstracts from any of its books of record at any reasonable time upon reasonable notice and to discuss the business, operations, properties and financial and other condition of the Loan Parties with officers and senior managerial employees of the Loan Parties and with their independent certified public accountants, in all cases subject to applicable Law and the terms of any applicable confidentiality agreements not entered into for purposes of obstructing the operation of this Section 6.10; provided, that an officer of the Borrower shall be provided reasonable opportunity to participate in any such discussion with the accountants; provided, further, that such inspections and discussions shall be coordinated through the Administrative Agent and that in the absence of a continuation of an Event of Default, the Administrative Agent and the Lenders shall not exercise such rights more often than once (1) during any calendar quarter. The Administrative Agent and each Lender agrees to use reasonable efforts to coordinate and manage the exercise its rights under this Section 6.10 so as to minimize the disruption to the business of the Borrower and its Subsidiaries resulting therefrom.~~

~~_____ Covenant to Guarantee Obligations and Give Security. At the Borrower's expense, take all action reasonably requested by the Administrative Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:~~

~~(a) upon the formation or acquisition of any new direct or indirect Subsidiary by any Loan Party:~~

~~(i) within (x) thirty (30) days after the formation or acquisition of any such Domestic Subsidiary or such longer period as may be reasonably acceptable to the Administrative Agent if the Loan Parties are diligently pursuing compliance herewith, and (y) forty five (45) days after the formation or acquisition of any such Foreign Subsidiary or, in the case of this clause (y), such longer period as may be reasonably acceptable to the Administrative Agent;~~

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

~~(B) cause (x) each such Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement or becomes a Guarantor to duly execute and deliver to the Administrative Agent Mortgages,~~

~~Security Agreement Supplements and other security agreements and documents and to execute, deliver, file and record any such other documents, statements, assignments, instruments, agreements or other papers and take all other actions reasonably requested by the Administrative Agent in order to create a perfected security interest with the priority required by the Collateral Documents in all of its assets required to constitute Collateral under the Loan Documents (including, with respect to Mortgages, the documents listed in Section 6.11(b)), as reasonably requested by and in form and substance reasonably satisfactory to the Administrative Agent (consistent with the Mortgages, Guarantee and Security Agreement and other security agreements in effect on the Closing Date), and (y) each direct parent of each such Subsidiary (if such parent is the Borrower or is required to be a Guarantor pursuant to the Collateral and Guarantee Requirement or becomes a Guarantor) to duly execute and deliver to the Administrative Agent such Security Agreement Supplements and other security agreements and to execute, deliver, file and record any such other documents, statements, assignments, instruments, agreements or other papers and take all other actions reasonably requested by the Administrative Agent in order to create a perfected security interest with the priority required by the Collateral Documents in any uncertificated Equity Interests of such Subsidiary that are required to constitute Collateral under the Loan Documents, as reasonably requested by the Administrative Agent and in form and substance reasonably satisfactory to the Administrative Agent (consistent with the Guarantee and Security Agreement in effect on the Closing Date); provided that notwithstanding the foregoing, prior to the First Lien Obligation Payment Date, this provision shall not apply with respect to any property which has not been included in the “Collateral” under the First Lien Term Loan Documents;~~

(C) — ~~(x) cause each such Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement or becomes a Guarantor to deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and any instruments evidencing the Indebtedness held by such Subsidiary and required to be pledged pursuant to the Collateral Documents, indorsed in blank to the Administrative Agent (or, prior to the First Lien Obligation Payment Date, to the First Lien Agent, as bailee for the Secured Parties), and (y) cause each direct parent of such Subsidiary (if such parent is the Borrower or is required to be a Guarantor pursuant to the Collateral and Guarantee Requirement or becomes a Guarantor) to deliver any and all certificates representing the outstanding Equity Interests (to the extent certificated) of such Subsidiary that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and any instruments evidencing the intercompany Indebtedness issued by such Subsidiary and required to be pledged in accordance with the Collateral Documents, indorsed in blank to the Administrative Agent (or, prior to the First Lien Obligation Payment Date, to the First Lien Agent, as bailee for the Secured Parties); provided that notwithstanding the foregoing, prior to the First Lien Obligation Payment Date, this provision shall not apply with respect to any property which has not been included in the “Collateral” under the First Lien Term Loan Documents;~~

(D) — take and cause such Subsidiary and each direct or indirect parent of such Subsidiary to take whatever action (including the recording of Mortgages, the filing of Uniform Commercial Code financing statements, delivery of stock and membership interest certificates, delivery of promissory notes duly endorsed in favor of the Administrative Agent, and the execution, delivery, filing and recording of any such other documents, statements, assignments, instruments, agreements or other papers) may be reasonably requested by the Administrative Agent to vest in the Administrative Agent (or in any representative of the Administrative Agent designated by it) valid Liens required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity;

(E) — (x) prior to the First Priority Obligations Payment Date, cause each of the Borrower's direct or indirect Domestic Subsidiaries which is a "Guarantor" under the First Lien Term Loan Documents to become a Guarantor under the Collateral and Guarantee Requirement to Guarantee the Obligations and (y) after the First Priority Obligations Payment Date, cause each such Subsidiary that is required to become a Guarantor under the Collateral and Guarantee Requirement to Guarantee the Obligations; and

(F) — cause each such Subsidiary to deliver to the Administrative Agent copies of its Organization Documents;

(ii) — within thirty (30) days (with respect to any Domestic Subsidiary) or forty five (45) days (with respect to any Foreign Subsidiary) after the request therefor by the Administrative Agent (or such longer period as may be reasonably acceptable to the Administrative Agent if the Loan Parties are diligently pursuing compliance herewith), deliver to the Administrative Agent a signed copy of an opinion, addressed to the Administrative Agent, the other Agents and the Lenders, of counsel for the Loan Parties reasonably acceptable to the Administrative Agent as to such matters set forth in this Section 6.11(a) as the Administrative Agent may reasonably request; and

(iii) — as promptly as practicable after the request therefor by the Administrative Agent, deliver to the Administrative Agent, with respect to each parcel of Material Real Property that is owned by such Subsidiary, any existing title reports, existing surveys or existing environmental assessment reports; and

(b) after the Closing Date, concurrently with the acquisition of any Material Real Property by any Loan Party and such Material Real Property shall not already be subject to a perfected Lien pursuant to the Collateral and Guarantee Requirement, the Borrower shall give notice thereof to the Administrative Agent and promptly thereafter shall cause such assets to be subjected to a Lien to the extent and at such times as shall be required by the Collateral and Guarantee Requirement and the Collateral Documents, as the case may be, and will take, or cause the relevant Loan Party to take, such actions and at such times as shall be reasonably requested by the Administrative Agent to grant and perfect or record such Lien, including, as applicable, the actions referred to in Section 6.13(b). Notwithstanding the foregoing, prior to the First Lien Obligations Payment Date, this provision shall not apply with respect to any property which has not been included in the "Collateral" under the First Lien Term Loan Documents.

Compliance with Environmental Laws. Except, in each case, to the extent that the failure to do so could not reasonably be expected to have, individually or in the aggregate, a Material

Adverse Effect: (a) comply, and take all reasonable actions to cause all lessees and other Persons operating or occupying its properties to comply, with all applicable Environmental Laws and Environmental Permits; (b) obtain and renew all Environmental Permits necessary for its operations and properties; and (c) in each case to the extent required by Environmental Laws, conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Hazardous Materials from any of its properties, in accordance with the requirements of all Environmental Laws.

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

(b) (i) Prior to the First Priority Obligations Payment Date, in the case of any Material Real Property referred to in Section 6.11(b), which has been mortgaged under the First Lien Term Loan Documents for which a Mortgage hereunder has not been delivered, provide the Administrative Agent with Mortgages with respect to such Material Real Property as soon as reasonably practicable together with:

(A) — to the extent provided to the First Lien Agent, evidence that counterparts of any such Mortgage has been duly executed, acknowledged and delivered and is in form suitable for filing or recording in all filing or recording offices that the Administrative Agent may deem reasonably necessary or desirable in order to create a valid and subsisting perfected Lien on the property and/or rights described therein in favor of the Administrative Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees that are due and payable have been paid or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent;

(B) — to the extent provided to the First Lien Agent, fully paid title insurance policies (or the equivalent or other forms available in each applicable jurisdiction) (the “**Mortgage Policies**”) with endorsements, issued, coinsured and reinsured by title insurers, insuring the Mortgages to be valid subsisting Liens on the property described therein, free and clear of all defects and encumbrances except for defects in title that do not materially interfere with the Loan Party’s ability to conduct business and subject to Liens permitted by Section 7.01, and providing for such other affirmative insurance (including endorsements for future advances under the Loan Documents) and such coinsurance and direct access reinsurance as the Administrative Agent may reasonably request. Notwithstanding the foregoing, to avoid duplication of title insurance premiums, the requirements of this Section 6.13(b)(B) shall be deemed satisfied if the Title Insurance Borrower either (x) issues a single binding pro forma or marked-up unconditional commitment to issue a mortgagee’s title insurance policy (or policies) insuring both the Mortgage in favor of the First Lien Agent and the Mortgage in favor of the Administrative Agent in the aggregate amount of the fair market value of the subject Mortgaged Property, or (y) issues a binding pro forma or marked-up unconditional commitment to issue a mortgagee’s title insurance policy (or policies) insuring the Mortgage in favor of the Administrative Agent in the same amount as the binding pro forma or marked-up unconditional commitment to issue a mortgagee’s title insurance policy (or policies) insuring the Mortgage in favor of the First Lien Agent and such binding pro forma or marked-up unconditional commitment to issue a mortgagee’s title insurance policy (or policies) contains a so-called “pro tanto” endorsement. To the extent delivered to the First Lien Agent, the Administrative Agent shall have received evidence reasonably satisfactory to the First Lien Agent that all premiums in respect of each such policy, all charges for mortgage recording tax, and all related expenses, if any, have been paid.

(C) — to the extent provided to the First Lien Agent, opinions of local counsel for the Loan Parties in states in which the real properties are located, with respect to the enforceability and perfection of any such Mortgage and any related fixture filings in form and substance substantially similar to those provided to the First Lien Agent; and

(D) — to the extent provided to the First Lien Agent, such other evidence, that all other actions that the Administrative Agent may reasonably deem necessary or desirable in order to create valid and subsisting Liens on the property described in each such Mortgage has been taken.

(ii) After the First Priority Obligations Payment Date, in the case of any Material Real Property referred to in Section 6.11(b), provide the Administrative Agent with Mortgages with respect to such Material Real Property within sixty (60) days of the acquisition of such real property (or such longer period as may be reasonably acceptable to the Administrative Agent if the Loan Parties are diligently pursuing compliance herewith) together with:

(A) — evidence that counterparts of any such Mortgage has been duly executed, acknowledged and delivered and is in form suitable for filing or recording in all filing or recording offices that the Administrative Agent may deem reasonably necessary or desirable in order to create a valid and subsisting perfected Lien on the property and/or rights described therein in favor of the Administrative Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees that are due and payable have been paid or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent;

(B) — fully paid title insurance policies (or the equivalent or other forms available in each applicable jurisdiction) (the “**Mortgage Policies**”) in form and substance, with endorsements and in amount, reasonably acceptable to the Administrative Agent (not to exceed the value of the real properties covered thereby), issued, coinsured and reinsured by title insurers reasonably acceptable to the Administrative Agent, insuring the Mortgages to be valid subsisting Liens on the property described therein, free and clear of all defects and encumbrances except for minor defects in title that do not materially interfere with the Loan Party’s ability to conduct business and subject to Liens permitted by Section 7.01, and providing for such other affirmative insurance (including endorsements for future advances under the Loan Documents) and such coinsurance and direct access reinsurance as the Administrative Agent may reasonably request;

(C) — if so requested by the Administrative Agent in its reasonable discretion, opinions of local counsel for the Loan Parties in states in which the real properties are located, with respect to the enforceability and perfection of any such Mortgage and any related fixture filings in form and substance reasonably satisfactory to the Administrative Agent; and

(D) — such other evidence that all other actions that the Administrative Agent may reasonably deem necessary or desirable in order to create valid and subsisting Liens on the property described in each such Mortgage has been taken.

Deposit Accounts. Prior to the First Priority Obligations Payment Date, maintain at all times all of the cash and Cash Equivalents of Holdings and its Domestic Subsidiaries (other than cash and Cash Equivalents not exceeding \$5,000,000 in the aggregate) at an account or accounts (i) with the First Lien Agent or any other financial institution that has entered into a control agreement with respect to such account(s) in form and substance reasonably satisfactory to the First Lien Agent and the Administrative Agent, (ii) at an account the entire balance of which is swept at least once every three (3) Business Days to an account described in clause (i) above or (iii) at accounts not otherwise allowable under this provision

which the lenders under the First Lien Credit Agreement have consented to be maintained with financial institutions other than the First Lien Agent and not subject to control agreements; and

~~After the First Priority Obligations Payment Date, maintain at all times all of the cash and Cash Equivalents of Holdings and its Domestic Subsidiaries (other than cash and Cash Equivalents not exceeding \$5,000,000 in the aggregate) at an account or accounts (i) with the Administrative Agent or any other financial institution that has entered into a control agreement with respect to such account(s) in form and substance reasonably satisfactory to the Administrative Agent or (ii) at an account the entire balance of which is swept at least once every three (3) Business Days to an account described in clause (i) above.~~

~~_____ Ratings. Use commercially reasonable efforts to obtain, on or prior to the 30th day after the Closing Date, ratings on the Facility from S&P and Moody's.~~

~~_____ Post Closing Covenants. Cause each post closing matter identified on Schedule 6.16 to be completed on or before the date set forth on Schedule 6.16 for such post closing matter.~~

ARTICLE VII

NEGATIVE COVENANTS

So long as any Loan or other Obligation hereunder which is accrued and payable shall remain unpaid or unsatisfied, each Loan Party shall not, and shall not permit any of its Subsidiaries to, directly or indirectly:

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

~~(a) Liens created pursuant to any Loan Document;~~

~~(b) Liens existing on the Closing Date (after giving effect to the occurrence of the Effective Date) and listed on Schedule 7.01(b) and any modifications, replacements, renewals or extensions of the foregoing; provided that (x) except as specified on Schedule 7.01(b), the principal amount of Indebtedness secured thereby is not increased (except as a result of changes in the Exchange Rate and except by the amount of premium, penalties, accrued and unpaid interest, fee and expenses associated with any Permitted Refinancing thereof) and (y) such Liens do not at any time extend to or cover any assets other than the assets subject to such Liens on the Closing Date (after giving effect to the occurrence of the Effective Date);~~

~~(c) Liens for taxes, assessments or governmental charges which are not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if reserves with respect thereto are maintained on the books of the applicable Person to the extent required by and in accordance with GAAP;~~

~~(d) statutory Liens of landlords, carriers, warehousemen, mechanics, materialmen, repairmen, workmen, suppliers, construction contractors or other like Liens arising in the ordinary course of business which secure amounts not overdue for a period of more than forty five (45) days or which are being contested in good faith and by appropriate proceedings diligently conducted, if reserves with respect thereto are maintained on the books of the applicable Person to the extent required by and in accordance with GAAP;~~

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

~~(f) Liens (including rights of set off) or deposits (including deposits made to satisfy statutory or other legal obligations in connection with sweepstakes or similar contests and Liens in favor of postal authorities) to secure the performance of bids, trade contracts, governmental contracts, tenders, statutory bonds and leases (other than Indebtedness for borrowed money and Capitalized Lease Obligations), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business;~~

~~(g) easements, rights of way, restrictions (including zoning restrictions), covenants, licenses, encroachments, protrusions and other similar encumbrances and minor title defects affecting real property which, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of the Borrower or any Subsidiary or materially detract from the value of the property subject thereto, and zoning, building codes and other land use laws regulating the use or occupancy of the real property or the activities conducted thereon which are imposed by any governmental authority having jurisdiction over such real property which are not violated by the current use or occupancy of such real property or the operation of the business of the Borrower or any Subsidiary thereon;~~

~~(h) Liens securing judgments, decrees, attachments or awards for the payment of money not constituting an Event of Default under Section 8.01(h);~~

~~(i) Liens securing Indebtedness permitted under Section 7.03(e) or 7.03(s); provided that (i) such Liens attach concurrently with or within forty five (45) days after the acquisition, repair, replacement, construction or improvement (as applicable) of the property subject to such Liens, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, (iii) with respect to Capitalized Lease Obligations, such Liens do not at any time extend to or cover any assets other than the assets subject to such Capitalized Lease Obligations except that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender and (iv) the principal amount of Indebtedness secured thereby is not increased (except as a result of changes in the Exchange Rate and except by the amount of premiums, penalties, accrued and unpaid interest, fee and expenses associated with any Permitted Refinancing thereof);~~

~~(j) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business which do not (i) interfere in any material respect with the business of the Borrower or any Subsidiary or (ii) secure any Indebtedness;~~

~~(k) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;~~

~~(l) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right of set off) arising in the ordinary course of business in connection with the maintenance of such accounts and (iii) arising under customary general terms of the account bank in relation to any bank account maintained with such bank and attaching only to such account and the products and proceeds thereof;~~

~~(m) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 7.02(f), (i) or (l) to be applied against the purchase price for such Investment, and (ii) consisting of an agreement to Dispose of any property in a Disposition permitted under Section 7.05, in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;~~

~~(n) any interest or title of a lessor under leases entered into by the Borrower or any of its Subsidiaries in the ordinary course of business and covering only the assets so leased and other assets directly related to such lease, including title and similar documents;~~

~~(o) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any of its Subsidiaries in the ordinary course of business permitted by this Agreement;~~

~~(p) Liens deemed to exist in connection with Investments in repurchase agreements under Section 7.02;~~

~~(q) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business, consistent with past practice and not for speculative purposes;~~

~~(r) Liens that are contractual rights of set-off or, in the case of clause (i) or (ii) below, other bankers' Liens (i) relating to treasury, depository and cash management services or any automated clearing house transfers of funds in the ordinary course of business and not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of Holdings, the Borrower or any Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of Holdings, the Borrower and the Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any Subsidiary in the ordinary course of business;~~

~~(s) Liens solely on any cash earnest money deposits made by the Borrower or any of its Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;~~

~~(t) Liens on equipment (including printing presses and data processing equipment) owned by the Borrower or any Subsidiary and located on the premises of any supplier, in the ordinary course of business;~~

~~(u) Liens on cash collateral securing letters of credit in an aggregate amount at any one time outstanding not to exceed \$25,000,000 (less the amount of cash collateral applied to the reimbursement of any such letters of credit (net of any such amounts returned by the beneficiary thereof in respect thereof));~~

~~(v) deposits in the ordinary course of business securing credit card programs maintained in the ordinary course of business in an amount not to exceed \$15,000,000 (plus the amount, up to an additional \$20,000,000, of such deposits sought by JPMorgan Chase Bank or its subsidiaries (including Paymentech)) in the aggregate at any one time outstanding;~~

~~(w) utility and other similar deposits made in the ordinary course of business;~~

~~(x) Liens on property or Equity Interests of any non Loan Party Foreign Subsidiary, which property or Equity Interests do not constitute Collateral, securing Indebtedness of such Foreign Subsidiary permitted under Section 7.03;~~

~~(y) Liens existing on property at the time of its acquisition or existing on the property of any Person at the time such Person becomes a Subsidiary, in each case after the date hereof (other than Liens on the Equity Interests of any Person that becomes a Subsidiary); provided that (i) such Lien was not created in contemplation of such acquisition or such Person becoming a Subsidiary, (ii) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof), and (iii) the Indebtedness secured thereby is permitted under Section 7.03(h);~~

~~(z) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located and other Liens affecting the interest of any landlord (and any underlying landlord) of any real property leased by the Borrower or any Subsidiary;~~

~~(aa) Liens not otherwise permitted by this Section so long as (i) neither (A) the aggregate outstanding principal amount of the obligations secured thereby nor (B) the aggregate fair market value (determined as of the date such Lien is incurred) of the assets subject thereto exceeds, at any one time outstanding, \$18,000,000 in the aggregate, and (ii) such Lien does not encumber the Equity Interests of any Subsidiary of Holdings; and~~

~~(bb) — Liens securing the obligations under the First Lien Term Loan Documents and any modifications, replacements, renewals or extensions thereof.~~

~~_____ Investments. Make or hold any Investments, except:~~

~~(a) Investments in cash and Cash Equivalents;~~

~~(b) loans or advances to officers, directors and employees of Holdings, the Borrower and the Subsidiaries in the ordinary course of business for reasonable and customary business related travel, entertainment, relocation and analogous ordinary business purposes in an aggregate principal amount outstanding for all Group Members not to exceed \$3,000,000 at any one time outstanding;~~

~~(c) Investments (i) by any Group Member in the Borrower or any wholly owned Subsidiary that is a Guarantor and (ii) by any Subsidiary that is not a Loan Party in any other Subsidiary, (iii) by any Loan Party in a Foreign Subsidiary in the ordinary course of business in the form of intercompany loans to fund ordinary course foreign operations in an aggregate amount not to exceed \$30,000,000 at any one time outstanding (provided that up to \$12,000,000 of such Investments may be made in the form of capital contributions instead of intercompany loans, the amount of such capital contributions to reduce Dollar for Dollar the amount of loans permitted by this clause (iii)) and (iv) Investments set forth on Schedule 7.02(c) up to the amounts at any one time outstanding and for the purposes set forth thereto;~~

~~(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 and other credits to suppliers in the ordinary course of business;~~

~~(e) Investments (i) resulting from the creation of a Lien permitted under Section 7.01, (ii) resulting from the incurrence of Indebtedness permitted under Section 7.03, (iii) made to effect~~

Dispositions permitted under Section 7.04 or Section 7.05 (other than Section 7.05(d)) or (iv) made to effect Restricted Payments permitted under Section 7.06;

~~(f) Investments existing on the date hereof and set forth on Schedule 7.02(f) and any modification, replacement, renewal, reinvestment or extension thereof that does not increase the aggregate amount thereof (except as a result of changes in the Exchange Rate) or as otherwise permitted by this Section 7.02;~~

~~(g) Investments in Swap Contracts permitted under Section 7.03;~~

~~(h) promissory notes and other non-cash consideration received in connection with Dispositions permitted by Section 7.05 to the extent not required to be made for cash consideration;~~

~~(i) the purchase or other acquisition of property and assets or businesses of any Person or of assets constituting a business unit, a line of business or division of such Person, or Equity Interests in a Person that, upon the consummation thereof, will be a Subsidiary of the Borrower (including as a result of a merger or consolidation); provided that, with respect to each purchase or other acquisition made pursuant to this Section 7.02(i) (each, a “Permitted Acquisition”):~~

~~(A) subject to clause (B) below, each applicable Loan Party and any such newly created or acquired Subsidiary (and, to the extent required under the Collateral and Guarantee Requirement, the Subsidiaries of such created or acquired Subsidiary) shall be a Guarantor and shall have complied with the requirements of and granted the security interests required by Section 6.11 within the times specified therein;~~

~~(B) the aggregate amount of consideration (cash and non-cash (other than the proceeds of Permitted Equity Issuances after the Closing Date Not Otherwise Applied), including (i) the fair market value (on the date of such Permitted Acquisition) of all Equity Interests issued or transferred to the sellers thereof and (ii) all indemnities, earnouts and other contingent payment obligations to, and the aggregate amounts paid or to be paid under noncompete, consulting and other affiliated agreements with, the sellers thereof, all write-downs of property and reserves for liabilities with respect thereto and all assumptions of debt, liabilities and other obligations in connection therewith; provided that any such liability or future payment pursuant to clause (ii) above that is subject to a contingency shall be considered consideration for a Permitted Acquisition for purposes of this clause (B) only to the extent of the amount of such liability or payment, if any, required under GAAP to be reflected on the face of a consolidated balance sheet of the Borrower or the reserve, if any, required under GAAP to be established in respect thereof by the Borrower or any of its Subsidiaries, in each case at the time such Permitted Acquisition is consummated) paid in respect of (x) all Permitted Acquisitions shall not exceed (1) \$50,000,000 for the period from the Closing Date to the first anniversary of the Closing Date, (2) \$100,000,000 for the period from the Closing Date to the second anniversary of the Closing Date and (3) \$150,000,000 for the period from the Closing Date to the Maturity Date (in each case plus the portion of Excess Cash Flow Not Otherwise Applied) and (y) acquisitions of Persons that do not become Loan Parties shall not exceed (1) \$25,000,000 for the period from the Closing Date to the first anniversary of the Closing Date, (2) \$50,000,000 for the period from the Closing Date to the second anniversary of the Closing Date and (3) \$75,000,000 for the period from the Closing Date to the Maturity Date;~~

~~(C) (1) immediately before and immediately after giving pro forma effect to any such purchase or other acquisition, no Default or Event of Default shall have occurred and be continuing and (2) immediately after giving effect to such purchase or other acquisition, the Borrower and the Subsidiaries shall be in compliance with, on a pro forma basis, all of the covenants set forth in~~

~~Section 7.10, such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent and the Lenders pursuant to Section 6.01(a) or (b) as though such purchase or other acquisition had been consummated as of the first day of the fiscal period covered thereby and evidenced by a certificate from a Responsible Officer of the Borrower demonstrating such compliance calculation in reasonable detail; and~~

~~(D) the Borrower shall have delivered to the Administrative Agent, on behalf of the Lenders, no later than five (5) Business Days after the date on which any such purchase or other acquisition is consummated, a certificate of a Responsible Officer, in form and substance reasonably satisfactory to the Administrative Agent, certifying that all of the requirements set forth in this clause (i) have been satisfied or will be satisfied on or prior to the consummation of such purchase or other acquisition;~~

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

~~(k) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers or in settlement of delinquent obligations of, or other disputes with, customers and suppliers arising in the ordinary course of business or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;~~

~~(l) in addition to Investments otherwise expressly permitted by this Section, Investments by the Borrower or any of its Subsidiaries in an aggregate amount not to exceed \$18,000,000 plus the aggregate amount of the proceeds of Permitted Equity Issuances after the Closing Date that have been contributed to the Borrower as common equity and Not Otherwise Applied and the portion of Excess Cash Flow Not Otherwise Applied;~~

~~(m) advances of payroll payments to employees and advances to authors in the ordinary course of business;~~

~~(n) existing Investments of a Subsidiary acquired after the Closing Date or of a corporation merged into the Borrower or merged or consolidated with a Subsidiary in accordance with Section 7.04 after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;~~

~~(o) Investments in assets useful in the business of the Borrower and its Subsidiaries made by the Borrower or any of its Subsidiaries with the Net Cash Proceeds received in connection with Dispositions or Casualty Events that are not applied to prepay the Loans pursuant to Section 2.03(b)(ii)(B);~~

~~(p) Guarantees by Holdings, the Borrower or any Subsidiary of leases (other than Capitalized Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business; and~~

~~(q) prepaid expenses and lease, utility, workers' compensation, performance and other similar deposits made in the ordinary course of business.~~

~~_____ Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:~~

~~(a) Indebtedness of any Loan Party under the Loan Documents;~~

~~(b) (i) Indebtedness outstanding on the Closing Date (after giving effect to the occurrence of the Effective Date) and listed on Schedule 7.03(b) and (ii) any Permitted Refinancing thereof (to the extent (A) such Permitted Refinancing is incurred by the Person who is the obligor of the Indebtedness subject to such Permitted Refinancing or (B) such incurrence is otherwise permitted under this Section 7.03);~~

~~(c) Guarantees made in the ordinary course of business by (i) any Group Member in respect of Indebtedness of the Borrower or any Subsidiary that is a Guarantor and (ii) any Subsidiary that is not a Loan Party in respect of Indebtedness of any other Subsidiary, in each case to the extent the Indebtedness being Guaranteed is otherwise permitted hereunder; provided that (A) no Guarantee by any Group Member of any Junior Financing shall be permitted unless such Group Member shall have also become a Guarantor hereunder and (B) if the Indebtedness being Guaranteed is subordinated to the Obligations, such Guarantee shall be subordinated to the Obligations (or the Guarantee thereof, as applicable) on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness;~~

~~(d) Indebtedness of the Borrower or any Subsidiary owing to the Borrower or any other Subsidiary to the extent constituting an Investment permitted by Section 7.02; provided that, all such Indebtedness of any Loan Party owed to any Person that is not a Loan Party shall be subordinated to the payment in full of the Obligations;~~

~~(e) (i) Attributable Indebtedness and other Indebtedness (including Capitalized Lease Obligations) financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets; provided that such Indebtedness is incurred concurrently with or within forty five (45) days after the applicable acquisition, construction, repair, replacement or improvement, and (ii) any Permitted Refinancing of any Indebtedness set forth in the immediately preceding clause (i); provided that the aggregate principal amount of all Indebtedness permitted under this Section 7.03(e) shall not exceed \$15,000,000 at any time outstanding plus the amount of any Capital Leases incurred solely as a result of the reclassification of existing operating leases as such due to changes in GAAP;~~

~~(f) Indebtedness in respect of Swap Contracts incurred in the ordinary course of business and not for speculative purposes;~~

~~(g) Indebtedness representing deferred compensation to employees of the Borrower and its Subsidiaries incurred in the ordinary course of business;~~

~~(h) Indebtedness (excluding Indebtedness incurred pursuant to Section 7.03(i) below) (i) assumed in connection with any Permitted Acquisition (provided such Indebtedness is not incurred in contemplation of such Permitted Acquisition) or incurred to finance a Permitted Acquisition or (ii) consisting of any Permitted Refinancing of the foregoing, in each case so long as both immediately prior and after giving effect thereto, (A) no Default or Event of Default shall be continuing or result therefrom, (B) the Borrower and its Subsidiaries will be in pro forma compliance with the covenants set forth in Section 7.10, such compliance to be determined on the basis of the financial information most recently delivered to the Administrative Agent and the Lenders pursuant to Section 6.01(a) or (b) as though such Indebtedness had been assumed or incurred as of the first day of the fiscal period covered thereby and evidenced by a certificate from the Chief Financial Officer of the Borrower demonstrating such compliance calculation in reasonable detail, (C) the aggregate principal amount of such Indebtedness and all Indebtedness resulting from any Permitted Refinancing thereof at any time outstanding pursuant to this paragraph (h) shall not exceed (x) \$25,000,000 for the period from the Closing Date to the first anniversary~~

of the Closing Date, (y) \$50,000,000 for the period from the Closing Date to the second anniversary of the Closing Date and (z) \$75,000,000 for the period from the Closing Date to the Maturity Date, and (D) the aggregate principal amount of such Indebtedness and all Indebtedness resulting from any Permitted Refinancing thereof shall not exceed, with respect to any such Permitted Acquisition, 50% of the aggregate amount of consideration paid in respect thereof;

~~(i) unsecured Indebtedness or earn-outs that are owed to the seller incurred in connection with a Permitted Acquisition, provided that such unsecured Indebtedness or earn-outs shall be subordinated and/or restricted in a manner reasonably satisfactory to the Administrative Agent;~~

~~(j) Indebtedness incurred by the Borrower or any Subsidiary in connection with any Investment or Disposition permitted by this Agreement, in each case constituting customary indemnification obligations or obligations in respect of purchase price or other similar adjustments;~~

~~(k) Indebtedness consisting of obligations of Holdings, the Borrower or the Subsidiaries under deferred compensation or other similar arrangements incurred by such Person in connection with any Investment expressly permitted hereunder;~~

~~(l) Cash Management Obligations and other Indebtedness of Foreign Subsidiaries in respect of intraday overdraft protections and similar intraday arrangements in each case in connection with deposit accounts incurred in the ordinary course of business in connection with cash management activities in an aggregate amount at any time outstanding (determined when incurred) not to exceed (i) with respect to Foreign Subsidiaries domiciled in Europe, \$25,000,000 in the aggregate, (ii) with respect to Foreign Subsidiaries domiciled in Canada or Latin America, \$10,000,000 in the aggregate and (iii) with respect to Foreign Subsidiaries domiciled in Asia or Australia, \$10,000,000 in the aggregate;~~

~~(m) Indebtedness in an aggregate principal amount not to exceed \$18,000,000 at any time outstanding (except as a result of changes in the Exchange Rate);~~

~~(n) Indebtedness consisting of (a) the financing of insurance premiums with the providers of such insurance or their affiliates or (b) take or pay obligations contained in supply arrangements, in each case, in the ordinary course of business;~~

~~(o) Indebtedness incurred by the Borrower or any of its Subsidiaries in respect of letters of credit, bank guarantees, bankers' acceptances or similar instruments issued or created in the ordinary course of business in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self insurance or other Indebtedness with respect to reimbursement type obligations regarding workers compensation claims; *provided* that any reimbursement obligations in respect thereof are reimbursed within 30 days following the incurrence thereof;~~

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

~~(q) Foreign Jurisdiction Deposits;~~

~~(r) Indebtedness of Foreign Subsidiaries in connection with factoring programs entered into in the ordinary course of business on customary market terms and with respect to receivables of, and generated by, Foreign Subsidiaries;~~

~~(s) in connection with leasehold improvements, Indebtedness incurred in connection with the financing thereof in an aggregate amount not to exceed \$10,000,000 at any time outstanding;~~

~~(t) (i) Indebtedness under the First Lien Credit Agreement in an aggregate principal amount not to exceed the First Lien Cap Amount and other First Lien Obligations (including, without limitation First Lien Secured Hedge Agreements and First Lien Cash Management Obligations), (ii) Guarantees of any Guarantor in respect of such Indebtedness and (iii) any Permitted Refinancing thereof; and~~

~~(u) to the extent constituting Indebtedness, judgments, decrees, attachments or awards not constituting an Event of Default under Section 8.01(h).~~

~~_____ Fundamental Changes. Merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that:~~

~~(a) (i) any Subsidiary of the Borrower may merge or be consolidated with the Borrower (provided that the Borrower shall be the continuing or surviving Person) or with one or more Guarantors (provided that the continuing or surviving Person is a Guarantor or a new Subsidiary which, substantially concurrently with such merger or consolidation, becomes a Guarantor hereunder) and (ii) any Subsidiary that is not a Loan Party may merge or be consolidated with one or more other Subsidiaries that are not Loan Parties;~~

~~(b) (i) any Subsidiary of the Borrower may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to the Borrower or one or more Guarantors and (ii) any Subsidiary that is not a Loan Party may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to one or more other Subsidiaries that are not Loan Parties; and~~

~~(c) a merger, dissolution, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 7.05, may be completed.~~

~~(d) any Subsidiary that is not a Loan Party may liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and its Subsidiaries and is not materially disadvantageous to the interests of the Lenders hereunder; and~~

~~(e) such transactions and changes described on Schedule 7.04(e) may be completed.~~

~~_____ Dispositions. Make any Disposition or enter into any agreement to make any Disposition, except:~~

~~(a) Dispositions of obsolete or worn out property, including the abandonment or other Disposition of Intellectual Property that is no longer material to the business of the Borrower and its Subsidiaries, whether now owned or hereafter acquired, in the ordinary course of business;~~

~~(b) Dispositions of inventory in the ordinary course of business;~~

~~(c) (i) Dispositions of property by any Group Member to the Borrower or any Guarantor and (ii) Dispositions of property by any Subsidiary that is not a Loan Party to the Borrower or any Subsidiary; provided that to the extent such transaction constitutes an Investment, such transaction is permitted under Section 7.02;~~

~~(d) Dispositions permitted by Sections 7.04 and 7.06 and Liens permitted by Section 7.01;~~

~~(e) Dispositions of cash and Cash Equivalents;~~

~~(f) (i) Dispositions of accounts receivable in connection with the collection or compromise thereof in the ordinary course of business and (ii) the factoring by Foreign Subsidiaries at maturity or collection of any accounts receivable pursuant to factoring programs entered into in the ordinary course of business on customary market terms and with respect to receivables of, and generated by, Foreign Subsidiaries;~~

~~(g) leases, subleases, licenses or sublicenses (including the provision of software under an open source license), in each case in the ordinary course of business and which do not materially interfere with the business of Holdings, the Borrower and the Subsidiaries;~~

~~(h) transfers of property to the extent subject to Casualty Events;~~

~~(i) Dispositions listed on Schedule 7.05(i);~~

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

~~(k) Dispositions in connection with office move or relocation in the ordinary course of business;~~

~~(l) Dispositions of [any and all of the art collections]⁺ owned by the Borrower on the Closing Date; and~~

~~(m) in the case of Holdings, Permitted Equity Issuances;~~

~~(n) Dispositions of property not otherwise permitted under this Section 7.05; *provided that* (i) at the time of such Disposition, no Default or Event of Default shall exist or would result from such Disposition, (ii) the aggregate book value of all property Disposed of in reliance on this Section 7.05(n) shall not exceed \$18,000,000 in the aggregate per fiscal year (provided that up to 50% of such amount for each fiscal year may be (A) carried back to the immediately preceding fiscal year, decreasing Dollar for Dollar the amount of Dispositions permitted pursuant to this paragraph (n) in such fiscal year and increasing Dollar for Dollar the amount of Dispositions permitted pursuant to this paragraph (n) in such immediately preceding fiscal year or (B) to the extent unused, carried forward to the immediately succeeding fiscal year), and (iii) not less than 80% of the consideration for such Disposition shall be in the form of cash or Cash Equivalents (in each case, free and clear of all Liens at the time received), other than nonconsensual Liens permitted by Section 7.01 and Liens permitted by Section 7.01(p) and clauses (i) and (ii) of Section 7.01(r);~~

~~*provided that* any Disposition of any property pursuant to this Section 7.05 (except pursuant to clauses (c), (d) and (h) and except for Dispositions from any Loan Party to any Loan Party) shall be for no less than the fair market value of such property at the time of such Disposition. To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 to any Person other than a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents without further action by the Administrative~~

⁺ ~~RDA to provide more information.~~

Agent, and the Administrative Agent shall be authorized to take any actions deemed appropriate in order to effect the foregoing.

Restricted Payments. Declare or make, directly or indirectly, any Restricted Payment, except:

(a) (i) any Subsidiary may make Restricted Payments to the Borrower or any Guarantor; (ii) any Subsidiary that is not a Loan Party may make Restricted Payments to the Borrower and any other Subsidiary and (iii) any Loan Party or its Subsidiary may make Restricted Payments to Holdings the proceeds of which will be used to pay (or to make Restricted Payments to allow any direct or indirect parent of Holdings to pay) the tax liability attributable to such Loan Party or Subsidiary in respect of consolidated, combined, unitary or affiliated tax returns for the relevant jurisdiction of Holdings (or such parent) in an amount not to exceed the taxes that would have been payable by such Loan Party or Subsidiary on a stand alone basis; and

(b) the Borrower and its Subsidiaries may make Restricted Payments to Holdings consisting of Permitted Holdings Distributions;

(c) so long as immediately before and after giving effect to any such Restricted Payment, no Default or Event of Default shall have occurred and be continuing or would result therefrom, the Borrower may make additional Restricted Payments to Holdings the proceeds of which may be utilized by Holdings to make additional Restricted Payments, in an aggregate amount in any fiscal year not to exceed the sum of (i) \$6,000,000 plus (ii) the aggregate amount of the proceeds of Permitted Equity Issuances after the Closing Date that have been contributed to the Borrower as common equity and Not Otherwise Applied plus (iii) the portion of Excess Cash Flow Not Otherwise Applied;

(d) Holdings, the Borrower and its Subsidiaries may declare and make dividend payments or other distributions to the extent payable in the Equity Interests (other than Disqualified Equity Interests not otherwise permitted by Section 7.03 or such dividend payments or distributions that would cause a Change of Control) of such Person;

(e) noncash repurchases of Equity Interests in Holdings, the Borrower or any Subsidiary deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants; and

(f) to the extent constituting Restricted Payments, Holdings, the Borrower and its Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Section 7.04.

Change in Nature of Business. Engage in a line of business different from those lines of business conducted by the Borrower and its Subsidiaries on the date hereof or any business reasonably related, ancillary or complementary thereto.

Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of Holdings, whether or not in the ordinary course of business, other than (i) transactions exclusively among the Borrower and any Guarantors or among any Guarantors (ii) transactions exclusively among any Subsidiaries that are not Loan Parties and (iii) transactions exclusively among any Group Members that are expressly contemplated by this Agreement to be among such Persons; *provided*, that in each case such transactions are not otherwise prohibited by this Agreement, transactions in the ordinary course of business that are not otherwise prohibited by this Agreement and that are on fair and reasonable terms no less favorable to Holdings, the Borrower or such Subsidiary as would be obtainable by Holdings, the Borrower

or such Subsidiary at the time in a comparable arm's length transaction with a Person other than an Affiliate, any Indebtedness among the Group Members to the extent permitted under Section 7.03(d), Investments of the type permitted by clauses (a), (b) and (c) of Section 7.02 and Restricted Payments permitted by Section 7.06, transactions pursuant to permitted agreements in existence on the Closing Date and set forth on Schedule 7.08 and (e) transactions pursuant to the Reorganization Plan.

~~_____ Burdensome Agreements. Enter into or permit to exist any Contractual Obligation (other than this Agreement or any other Loan Document) that limits the ability of (a) any Subsidiary of the Borrower to make Restricted Payments to the Borrower or any other Subsidiary, (b) any Subsidiary of the Borrower to make loans or advances to, or other Investments in, the Borrower or any other Subsidiary, (c) any Subsidiary of the Borrower to transfer any of its assets to the Borrower or any other Subsidiary or (d) any Loan Party to create, incur, assume or suffer to exist any Lien upon any of its property or revenues, whether now owned or hereafter acquired; provided that the foregoing shall not apply to Contractual Obligations which (i) (x) arise under the First Lien Term Loan Documents or exist on the date hereof and (to the extent not otherwise permitted by this Section 7.09) are listed on Schedule 7.09 hereto or (y) are set forth in any agreement evidencing any permitted amendment, renewal, extension or refinancing of any Contractual Obligation permitted by clause (x) so long as such amendment, renewal, extension or refinancing is not materially more restrictive than such Contractual Obligation, (ii) arise in connection with any Disposition permitted by Section 7.05 and relate solely to the assets or Person subject to such Disposition, (iii) are customary restrictions in leases, subleases, licenses, sublicenses or asset sale agreements otherwise permitted hereby entered into in the ordinary course of business and consistent with past practice so long as such restrictions relate only to the assets subject thereto, (iv) are customary provisions restricting subletting or assignment of any lease governing a leasehold interest of the Borrower or any Subsidiary, (v) are customary provisions restricting assignment of any agreement entered into in the ordinary course of business, (vi) are restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business, and (vii) comprise restrictions imposed by a Lien permitted by Section 7.01 restricting the transfer of only the property subject thereto.~~

~~_____ Financial Condition Covenants.~~

~~(a) Consolidated Fixed Charge Coverage Ratio. Permit the Consolidated Fixed Charge Coverage Ratio as at the last day of any Test Period ending on any date set forth below to be less than the ratio set forth below opposite such date:~~

Date	Consolidated Fixed Charge Coverage Ratio
[_____] March 31, 2010	[_____] 1.05 : 1.00
June 30, 2010	1.05 : 1.00
September 30, 2010	1.05 : 1.00
December 31, 2010	1.05 : 1.00
March 31, 2011	1.10 : 1.00
June 30, 2011	1.10 : 1.00
September 30, 2011	1.10 : 1.00
December 31, 2011	1.10 : 1.00
March 31, 2012	1.15 : 1.00

<u>June 30, 2012</u>	<u>1.15 : 1.00</u>
<u>September 30, 2012</u>	<u>1.15 : 1.00</u>
<u>December 31, 2012</u>	<u>1.15 : 1.00</u>
<u>March 31, 2013</u>	<u>1.25 : 1.00</u>
<u>June 30, 2013</u>	<u>1.25 : 1.00</u>
<u>September 30, 2013</u>	<u>1.25 : 1.00</u>
<u>December 31, 2013</u>	<u>1.25 : 1.00</u>
<u>March 31, 2014</u>	<u>1.35 : 1.00</u>

(b) ~~Minimum Cumulative Consolidated EBITDA.~~ Permit the Consolidated EBITDA as at the last day of any Test Period ending on any date set forth below, to be less than the amount set forth below opposite such date:

<u>Date</u>	<u>Cumulative Consolidated EBITDA</u>
[<u> </u>] <u>March 31, 2010</u>	[<u> </u>] <u>\$115,000,000</u>
<u>June 30, 2010</u>	<u>\$115,000,000</u>
<u>September 30, 2010</u>	<u>\$115,000,000</u>
<u>December 31, 2010</u>	<u>\$115,000,000</u>
<u>March 31, 2011</u>	<u>\$130,000,000</u>
<u>June 30, 2011</u>	<u>\$130,000,000</u>
<u>September 30, 2011</u>	<u>\$130,000,000</u>
<u>December 31, 2011</u>	<u>\$130,000,000</u>
<u>March 31, 2012</u>	<u>\$130,000,000</u>
<u>June 30, 2012</u>	<u>\$130,000,000</u>
<u>September 30, 2012</u>	<u>\$130,000,000</u>
<u>December 31, 2012</u>	<u>\$130,000,000</u>
<u>March 31, 2013</u>	<u>\$140,000,000</u>
<u>June 30, 2013</u>	<u>\$140,000,000</u>
<u>September 30, 2013</u>	<u>\$140,000,000</u>
<u>December 31, 2013</u>	<u>\$140,000,000</u>
<u>March 31, 2014</u>	<u>\$140,000,000</u>

(c) ~~Minimum Liquidity.~~ Permit Liquidity, as of the last day of any fiscal month, to be less than \$[] 85,000,000.

(d) ~~Total Leverage Ratio.~~ Permit the Total Leverage Ratio as of the last day of any Test Period ending on any date set forth below to be ~~less~~greater than the ratio set forth below opposite such date:

<u>Date</u>	<u>Total Leverage Ratio</u>
<u>[] March 31, 2010</u>	<u>[] 4.50 : 1.00</u>
<u>June 30, 2010</u>	<u>4.50 : 1.00</u>
<u>September 30, 2010</u>	<u>4.50 : 1.00</u>
<u>December 31, 2010</u>	<u>4.50 : 1.00</u>
<u>March 31, 2011</u>	<u>4.25 : 1.00</u>
<u>June 30, 2011</u>	<u>4.25 : 1.00</u>
<u>September 30, 2011</u>	<u>4.00 : 1.00</u>
<u>December 31, 2011</u>	<u>4.00 : 1.00</u>
<u>March 31, 2012</u>	<u>3.75 : 1.00</u>
<u>June 30, 2012</u>	<u>3.75 : 1.00</u>
<u>September 30, 2012</u>	<u>3.75 : 1.00</u>
<u>December 31, 2012</u>	<u>3.75 : 1.00</u>
<u>March 31, 2013</u>	<u>3.50 : 1.00</u>
<u>June 30, 2013</u>	<u>3.50 : 1.00</u>
<u>September 30, 2013</u>	<u>3.50 : 1.00</u>
<u>December 31, 2013</u>	<u>3.50 : 1.00</u>
<u>March 31, 2014</u>	<u>3.50 : 1.00</u>

~~_____ Sale and Leaseback Transactions.~~ Enter into any arrangement with any Person providing for the leasing by any Group Member of real or personal property that has been or is to be sold or transferred by such Group Member to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of such Group Member other than any such transaction the subject of which is the Loan Parties' property at 5400 South 60th Street, Greendale, Wisconsin.

~~_____ Swap Contracts.~~ Enter into any Swap Contract, except (a) Swap Contracts entered into to hedge or mitigate risks to which the Borrower or any Subsidiary has actual exposure (other than those in respect of Equity Interests of any Person) and (b) Swap Contracts entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or any Subsidiary; *provided*, that in each case such Swap Contracts are not entered into for speculative purposes.

~~_____ Accounting Changes.~~ Make any change in its fiscal year, (i) except as required by GAAP and (ii) except the change to December 31 and any related changes.

~~_____ Prepayments, Etc. of Indebtedness.~~ Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner (it being understood that payments of regularly scheduled interest shall be permitted) any Indebtedness that is required to be subordinated to the

Obligations pursuant to the terms of the Loan Documents (collectively, “**Junior Financing**”) or make any payment in violation of any subordination terms of any Junior Financing Documentation, except the refinancing thereof with the Net Cash Proceeds of any Permitted Refinancing otherwise permitted under Section 7.03.

(b) Amend, modify or change in any manner materially adverse to the interests of the Lenders (i) any term or condition of any First Lien Term Loan Document or any other Junior Financing Documentation or (ii) any Organization Document of any Group Member, in any case without the consent of the Administrative Agent.

~~_____ Holding Company.~~ In the case of Holdings, conduct, transact or otherwise engage in any business or operations other than those incidental to its ownership of the Equity Interests in, and its management of, the Borrower, the maintenance of its legal existence and its compliance with applicable Laws, the performance of the Loan Documents and the First Lien Term Loan Documents, any public offering of its common stock or any other issuance of its Equity Interests not prohibited by Article VII, and the issuance, acquisition or maintenance of any Indebtedness or Investments, or the making of any Restricted Payments, that Holdings is expressly permitted to enter into or consummate under this Article VII; *provided* that, notwithstanding the foregoing, Holdings shall not own, lease, manage, acquire or otherwise operate any properties or assets (other than the ownership of Equity Interests in, and its management of, the Borrower, cash and Cash Equivalents and de minimis amounts of other assets incidental to the conduct of its business) or incur any material consensual liabilities (other than liabilities related to its existence and permitted business and activities specified above).

~~_____ Capital Expenditures.~~ Permit the aggregate amount of Capital Expenditures made during each fiscal year ~~twelve month period ended on the date~~ specified below to exceed the amount set forth opposite such fiscal year below ~~date~~:

<u>Fiscal Year</u>	<u>Capital Expenditure Amount</u>
<u>December 31, 2010</u>	{ _____ } \$40,000,000
<u>December 31, 2011</u>	{ _____ } \$30,000,000
<u>December 31, 2012</u>	{ _____ } \$30,000,000
<u>December 31, 2013</u>	{ _____ } \$30,000,000
2014	{ _____ }

~~;~~ *provided* that the amount of Capital Expenditures permitted to be made in respect of any fiscal year ~~twelve month period~~ shall be increased by an amount equal to the sum of (x) the aggregate amount of the Net Cash Proceeds of Permitted Equity Issuances after the Closing Date (other than Permitted Equity Issuances made pursuant to Section 9.04) that have been contributed to the Borrower as common equity and Not Otherwise Applied.

(b) ~~_____~~ Notwithstanding anything to the contrary contained in clause (a) above, to the extent that the aggregate amount of Capital Expenditures made by the Borrower and the Subsidiaries in any fiscal year pursuant to Section 7.16(a) is less than the maximum amount of Capital Expenditures permitted by Section 7.16(a) with respect to such fiscal year, the amount of such difference (the “**Rollover Amount**”) may be carried forward and used to make Capital Expenditures in the next succeeding fiscal year; *provided* that Capital Expenditures in any fiscal year shall be counted against the base amount set forth in Section

~~7.16(a) with respect to such fiscal year prior to being counted against any Rollover Amount available with respect to such fiscal year.~~

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

~~_____ Events of Default. Any of the following shall constitute an Event of Default:~~

~~(a) *Non-Payment.* The Borrower or any other Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan, or (ii) within three (3) Business Days after the same becomes due, any interest or any other amount payable hereunder or with respect to any other Loan Document; or~~

~~(b) *Specific Covenants.* Any Group Member fails to perform or observe (or to cause the performance or observance of) any term, covenant or agreement contained in any of Sections 6.04(a), 6.06 (solely with respect to Holdings and the Borrower) or 6.16 or Article VII or Section [] or [] of the Guarantee and Security Agreement; or~~

~~(c) *Other Defaults.* Any Group Member fails to perform or observe (or to cause the performance or observance of) any other covenant or agreement (not specified in Section 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after written notice thereof by the Administrative Agent or the Required Lenders to the Borrower; or~~

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

~~(e) *Cross-Default.* Any Group Member (A) fails to make any payment beyond the applicable grace period with respect thereto, if any (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness (other than Indebtedness hereunder) having an aggregate principal amount of not less than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition contained in any instrument or agreement evidencing, governing, securing or otherwise relating to any such Indebtedness, or any other "default" (or like term) occurs, the effect of which failure or other "default" is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due (automatically or otherwise) prior to its stated maturity (or, in the case of any such Indebtedness constituting a Guarantee, to become payable); provided, that any such failure or other default under the First Lien Credit Agreement shall cause an Event of Default under this clause (e)(B) only if such failure or other default, results in Indebtedness under the First Lien Credit Agreement becoming due prior to its stated maturity; provided further that this clause (e)(B) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; provided, further, that this clause (e) shall not apply in respect of (x) any Indebtedness of any Designated Non Debtor that becomes due or payable, or is capable of becoming due or payable, prior to its stated maturity, or (y) any non-payment in respect of any Indebtedness by any Designated Non Debtor, in each case to the extent caused by or directly resulting from the institution of any proceeding under any Debtor Relief Law in respect of such Designated Non Debtor; or~~

~~(f) *Insolvency Proceedings, Etc.*—Any Group Member other than a Designated Non-Debtor institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days, or an order for relief approving or ordering any of the foregoing is entered in any such proceeding [(to avoid any doubt, it being understood and agreed that none of the foregoing shall be applicable to commencement of a process relating to *Mandataire ad Hoc* or an appointment of a *Mandataire* pursuant to French laws)]²; or~~

~~(g) *Inability to Pay Debts; Attachment.*—Any Group Member other than a Designated Non-Debtor becomes generally unable or admits in writing its inability generally or fails generally to pay its debts in excess of the Threshold Amount as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any Group Member, and is not released, vacated or fully bonded within sixty (60) days after its issue or levy; or~~

~~(h) *Judgments.*—(i) One or more judgments or decrees shall be entered against any Group Member involving in the aggregate a liability (not paid or fully covered by insurance as to which the relevant insurance company has not disputed coverage) of an amount exceeding the Threshold Amount, and all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within thirty (30) days from the entry thereof; or (ii) there shall be rendered against any Group Member a nonmonetary judgment with respect to any event which causes or could reasonably be expected to have a Material Adverse Effect; or~~

~~(i) *ERISA.*—An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party under Title IV of ERISA in an aggregate amount which could reasonably be expected to result in a Material Adverse Effect, (ii) any Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount which could reasonably be expected to result in a Material Adverse Effect, (iii) any Loan Party or any ERISA Affiliate engages in any “prohibited transaction” (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Pension Plan which could reasonably be expected to result in a Material Adverse Effect, or (iv) other than the matters disclosed in Schedule 5.11(c), any other event or condition shall occur or exist with respect to a Pension Plan, a Foreign Benefit Arrangement or Foreign Plan which has resulted or could reasonably be expected to result in a Material Adverse Effect; or~~

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

~~(k) *Invalidity of Liens.*—Any of the Collateral Documents shall cease, for any reason, to be in full force and effect, or any Loan Party or any Affiliate of any Loan Party shall so assert, or any Liens created by any Collateral Documents shall cease to be enforceable and of the same effect and priority purported to be created thereby other than by reason of the release thereof in accordance with the terms thereof; or~~

² ~~To be discussed.~~

~~(l) *Invalidity of Guarantees.* The Guarantees contained in the Collateral Documents shall cease, for any reason, to be in full force and effect or any Loan Party or Affiliate of any Loan Party shall so assert in writing (it being understood and agreed that the discharge of a Guarantor from a Collateral Document in accordance with the terms hereof and thereof shall not be construed as the Guarantee(s) in such Collateral Document ceasing to be in full force and effect); or~~

~~(m) *Junior Financing Documentation.* Any of the Obligations of the Loan Parties under the Loan Documents for any reason shall cease to be "Senior Indebtedness" (or any comparable term) or "Senior Secured Financing" (or any comparable term) under, and as defined in any Junior Financing Documentation.~~

~~_____ Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent may and, at the request of the Required Lenders, shall take any or all of the following actions:~~

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

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

~~provided that upon the occurrence of an Event of Default specified in Section 8.01(f) with respect to the Borrower, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, without further act of the Administrative Agent or any Lender.~~

~~_____ Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 8.02), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:~~

~~*First*, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 10.04 and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;~~

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

~~*Third*, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, ratably among the holders of such Obligations in proportion to the respective amounts described in this clause *Third* payable to them;~~

~~*Fourth*, to payment of that portion of the Obligations constituting unpaid principal of the Loans, and the termination value under Secured Hedge Obligations and Cash Management Obligations, ratably among the holders of such Obligations in proportion to the respective amounts described in this clause *Fourth* held by them;~~

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

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

Notwithstanding anything to the contrary in this Agreement, amounts received from any Foreign Subsidiary on account of the Obligations of any Foreign Subsidiary shall be applied solely to the payment of Obligations of Foreign Subsidiaries.

ARTICLE IX

ADMINISTRATIVE AGENT AND OTHER AGENTS

Appointment and Authorization of Agents. Pursuant to the Reorganization Plan, the Administrative Agent, on behalf of the Lenders, is empowered and authorized to take action under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Without limiting the foregoing, each Lender hereby irrevocably appoints, designates and authorizes the Administrative Agent to take such actions and exercise such powers and perform such duties. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Loan Document, the Administrative Agent shall have no duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

(b) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (in its capacities as a Lender and a potential Hedge Bank) hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or on trust for) such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “collateral agent” (and any co-agents, sub-agents and attorneys in fact appointed by the Administrative Agent pursuant to Section 9.02 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article IX (including, Section 9.07, as though such co-agents, sub-agents and attorneys in fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto.

Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement or any other Loan Document (including for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents or of exercising any rights and remedies thereunder) by or through agents, employees or attorneys in fact and such sub-agents as shall

be deemed necessary by the Administrative Agent and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or sub-agent or attorney in fact that it selects in the absence of gross negligence or willful misconduct (as determined in the final non-appealable judgment of a court of competent jurisdiction).

Liability of Agents. No Agent Related Person shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct, as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein), or (b) be responsible in any manner to any Lender or participant for any recital, statement, representation or warranty made by any Loan Party or any officer thereof, contained herein or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Collateral Documents, or for any failure of any Loan Party or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent Related Person shall be under any obligation to any Lender or participant to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof.

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

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

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

such direction, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable or in the best interest of the Lenders.

~~_____ Credit Decision; Disclosure of Information by Agents. Each Lender expressly acknowledges that no Agent Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent Related Person to any Lender as to any matter, including whether Agent Related Persons have disclosed material information in their possession. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent Related Person.~~

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

~~_____ Agents in their Individual Capacities. JPMorgan Chase Bank and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire Equity Interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with each~~

of the Loan Parties and their respective Affiliates as though JPMorgan Chase Bank were not the Administrative Agent hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, JPMorgan Chase Bank or its Affiliates may receive information regarding any Loan Party or its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to its Loans, JPMorgan Chase Bank shall have the same rights and powers under this Agreement as any other Lender and may exercise such rights and powers as though it were not the Administrative Agent, and the terms "Lender" and "Lenders" include JPMorgan Chase Bank in its individual capacity.

~~Successor Agents.~~ The Administrative Agent may resign as the Administrative Agent upon thirty (30) days' notice to the Lenders and the Borrower. If the Administrative Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders. If no successor agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders, a successor agent, which shall be a Lender or a bank with an office in New York, New York or an Affiliate of such Lender or bank. Upon the acceptance of its appointment as successor agent hereunder, the Person acting as such successor agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term "Administrative Agent," shall mean such successor administrative agent and/or supplemental administrative agent, as the case may be, and the retiring Administrative Agent's appointment, powers and duties as the Administrative Agent shall be terminated. After the retiring Administrative Agent's resignation hereunder as the Administrative Agent, the provisions of this Article IX and Sections 10.04 and 10.05 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent under this Agreement. If no successor agent has accepted appointment as the Administrative Agent by the date which is thirty (30) days following the retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. Upon the acceptance of any appointment as the Administrative Agent hereunder by a successor and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to (a) continue the perfection of the Liens granted or purported to be granted by the Collateral Documents or (b) otherwise ensure that the Collateral and Guarantee Requirement is satisfied, the Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, discretion, privileges, and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations under the Loan Documents. After the retiring Administrative Agent's resignation hereunder as the Administrative Agent, the provisions of this Article IX shall continue in effect for its benefit in respect of any actions taken or omitted to be taken by it while it was acting as the Administrative Agent.

~~Administrative Agent May File Proofs of Claim.~~ In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and

advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.06 and 10.04) allowed in such judicial proceeding; and

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

~~and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.06 and 10.04.~~

~~Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.~~

Collateral and Guarantee Matters. The Lenders irrevocably agree:

~~(a) that any Lien on any property granted to or held by the Administrative Agent under any Loan Document shall be automatically released (i) upon payment in full of all Obligations (other than (x) obligations under Secured Hedge Agreements, (y) Cash Management Obligations and (z) contingent reimbursement and indemnification obligations not yet accrued and payable), (ii) at the time the property subject to such Lien is transferred or to be transferred as part of or in connection with any transfer permitted hereunder or under any other Loan Document to any Person other than a Loan Party, (iii) subject to Section 10.01, if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such greater number of Lenders as may be required pursuant to Section 10.01), or (iv) if the property subject to such Lien is owned by a Guarantor, upon release of such Guarantor from its obligations under its Guaranty under the Guarantee and Security Agreement pursuant to clause (c) below;~~

~~(b) to release or subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(i) and (ii) that the Administrative Agent is authorized (but not required) to release or subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by any other clause of Section 7.01; and~~

~~(c) that any Guarantor shall be automatically released from its obligations under the Guarantee and Security Agreement if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder; provided that no such release shall occur if such Guarantor continues to be a guarantor in respect of any Junior Financing.~~

Upon request by the Administrative Agent at any time, the Required Lenders (or such greater number of Lenders as may be required pursuant to Section 10.01) will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guarantee and Security Agreement pursuant to this Section 9.11. In each case as specified in this Section 9.11, the Administrative Agent will (and each Lender irrevocably authorizes the Administrative Agent to), 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 or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or to evidence the release of such Guarantor from its obligations under the Guarantee and Security Agreement, in each case in accordance with the terms of the Loan Documents and this Section 9.11.

~~_____ Other Agents; Arranger and Managers. None of the Lenders or other Persons identified on the facing page or signature pages of this Agreement as a “syndication agent,” “bookrunner” or “lead arranger” shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.~~

~~_____ Appointment of Supplemental Administrative Agents. It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a “Supplemental Administrative Agent” and collectively as “Supplemental Administrative Agents”).~~

~~(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article IX and of Sections 10.04 and 10.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.~~

~~(c) Should any instrument in writing from the Borrower, Holdings or any other Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower or Holdings, as applicable, shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.~~

ARTICLE X

MISCELLANEOUS

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

(a) ~~postpone any date scheduled for, or reduce or forgive the amount of, any payment of principal or interest under Section 2.05 or Section 2.06 without the written consent of each Lender directly affected thereby, it being understood that the waiver of (or amendment to the terms of) any mandatory prepayment of the Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest;~~

(b) ~~reduce or forgive the principal of, or the rate of interest specified herein on, any Loan or (subject to clause (i) of the second proviso to this Section 10.01) any fees (including fees set forth in Section 2.06 or other amounts payable hereunder or under any other Loan Document), or extend, postpone or waive the date upon which any fees are to be paid, without the written consent of each Lender directly affected thereby; provided that, only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate;~~

(c) ~~change any provision of this Section 10.01, the definition of "Required Lenders" or "Pro Rata Share", the third sentence of Section 2.09(a), Section 2.10, Section 8.03 or Section 10.07(a)(x) without the written consent of each Lender affected thereby;~~

(d) ~~release or subordinate all or substantially all of the Liens or Collateral granted to the Secured Parties under any Loan Document in any transaction or series of related transactions, without the written consent of each Lender; or~~

(e) ~~release all or substantially all of the aggregate value of the Guaranty, without the written consent of each Lender;~~

and *provided further* that (i) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document and (ii) Section 10.07(h) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the principal of the Loans of such Lender may not be reduced or forgiven without the consent of such Lender (it being understood that any Loans held or deemed held by any Defaulting Lender shall be excluded for a vote of the Lenders hereunder requiring any consent of the Lenders).

Notwithstanding anything to the contrary contained in Section 10.01, guarantees, collateral security documents and related documents executed by Foreign Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is

delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities or defects or (iii) to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Loan Documents.

Notices and Other Communications; Facsimile Copies. *General.* Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Loan Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) — if to the Borrower or the Administrative Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person below or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties:

The Borrower: The Reader's Digest Association, Inc.
Reader's Digest Road
Pleasantville, NY 10570
Attention: Treasurer
Telephone number: 914 244 7683
Facsimile number: 914 244 5904
Electronic mail address: william.magill@rd.com
Website address: www.rd.com

With copies to (which shall not constitute a notice hereunder):

Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
Attention: Leonard Klingbaum
Telephone number: 212 446 4792
Facsimile number: 212 446 6460
Electronic mail address: leonard.klingbaum@kirkland.com

The Administrative Agent: JPMorgan Chase Bank, N.A.
277 Park Avenue, 8th Floor
New York, NY 10172
Attention: Elizabeth A. Kelley
Telephone number: 212 622 4511
Facsimile number: 212 622 4557
Electronic mail address: elizabeth.kelley@jpmorgan.com

With a copy to:

JPMorgan Chase Loan & Agency Services
1111 Fannin, Floor 10
Houston, TX 77002
Attention: Maryann T. Bui
Telephone number: 713 750 7932
Facsimile number: 713 750 2878

Electronic mail address: maryann.t.bui@jpmchase.com

(ii) ~~if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the Borrower and the Administrative Agent.~~

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

~~(b) Effectiveness of Facsimile Documents and Signatures. Loan Documents may be transmitted and/or signed by facsimile or "PDF" (subject to Section 10.02(d)). The effectiveness of any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually signed originals and shall be binding on all Loan Parties, the Agents and the Lenders.~~

~~(c) Reliance by Agents and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Conversion or Continuation Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify each Agent Related Person and each Lender from all losses, liabilities and related reasonable out of pocket costs and expenses resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence or willful misconduct. All telephonic notices to the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.~~

~~(d) 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 Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Articles II and III, if such Lender has notified the Administrative Agent that it is incapable of receiving notices thereunder by electronic communication. The Administrative Agent or the Borrower may, in their discretion, agree to accept notices and other communications to them hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgment), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.~~

No Waiver; Cumulative Remedies. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Attorney Costs, Expenses and Taxes. The Borrower agrees (a) to pay or reimburse the Administrative Agent, the Syndication Agent, the Arranger and the Specified Lenders for all reasonable documented out of pocket costs and expenses incurred in connection with the preparation, negotiation, syndication and execution of this Agreement and the other Loan Documents, and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), and the consummation and administration of the transactions contemplated hereby and thereby, including all (i) Attorney Costs of one lead counsel in each relevant jurisdiction and (ii) costs of Moelis, J.H. Cohn and other advisors to the Administrative Agent, in the case of this clause (ii) accrued through the completion of the transactions contemplated by the Reorganization Plan and (b) to pay or reimburse the Administrative Agent, the Syndication Agent, the Arranger and each Lender for all reasonable documented out of pocket costs and expenses incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any negotiations, workouts, restructurings or legal proceedings, including any proceeding under any Debtor Relief Law, and including all Attorney Costs of one lead counsel in each relevant jurisdiction and the fees and disbursements of any financial advisor or third party consultants or appraisers to and of the Administrative Agent). The foregoing costs and expenses shall include all reasonable search, filing, recording and title insurance charges and fees and taxes related thereto, and other reasonable and out of pocket expenses incurred by any Agent. The agreements in this Section 10.04 shall survive the repayment of all Obligations. All amounts due under this Section 10.04 shall be paid within ten (10) Business Days of receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion.

Indemnification by the Borrower. Whether or not the transactions contemplated hereby are consummated, the Borrower shall indemnify and hold harmless each Agent Related Person, each Lender and their respective Affiliates, and directors, officers, employees, counsel, agents, trustees, investment advisors and attorneys in fact of each of the foregoing (collectively, the “**Indemnitees**”) from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments and suits and related reasonable out of pocket expenses (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnatee in any way relating to or arising out of or in connection with (a) the execution, delivery, enforcement, performance, administration, amendment, modification or waiver of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, (b) any Loan or the use or proposed use of the proceeds therefrom, or (c) to the extent relating to or arising from any of the foregoing, any actual or alleged presence or release of Hazardous Materials on or from any property currently or formerly owned, leased or operated by any Group Member, or any Environmental Liability related in any way to any Group Member, or (d) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnatee is a party thereto (all the foregoing, collectively, the “**Indemnified Liabilities**”), in all cases, whether or not caused by or arising, in whole or in part, out of the negligence of the Indemnatee;

provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits or expenses are found in a final non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnatee, any Affiliate of such Indemnatee or any officer, director, employee, advisor, representative or agent of such Indemnatee or any such Affiliate. No Indemnatee shall be liable to any Group Member for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with this Agreement. No Indemnatee shall be liable (whether direct or indirect, in contract, tort or otherwise) to any Group Member except to the extent such liability is found in a non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnatee, any Affiliate of such Indemnatee or any officer, director, employee, advisor, representative or agent of such Indemnatee or any such Affiliate. No Indemnatee shall have any liability to any Group Member, nor any Group Member to any Indemnatee, for any special, punitive, indirect or consequential damages (including, without limitation, loss of profits, business or anticipated savings) relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date). All amounts due under this Section 10.05 shall be paid within ten (10) Business Days after demand therefor; provided, however, that such Indemnatee shall promptly refund any amount received under this Section 10.05 to the extent that there is a final judicial or arbitral determination that such Indemnatee was not entitled to indemnification or contribution rights with respect to such payment pursuant to the express terms of this Section 10.05. The agreements in this Section 10.05 shall survive the resignation of the Administrative Agent, the replacement of any Lender and the repayment, satisfaction or discharge of all the Obligations.

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

Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (x) neither Holdings nor the Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender and (y) no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee, (ii) by way of participation in accordance with the provisions of Section 10.07(e), (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.07(g) or Section 10.07(i) or (iv) to an SPC in accordance with the provisions of Section 10.07(h) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 10.07(e) and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (other than (A) a natural person or (B) Holdings or any of its Subsidiaries or any of

their respective Affiliates) (“Assignees”) all or a portion of its rights and obligations under this Agreement (including all or a portion of the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of the Administrative Agent.

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

(1) — except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender’s Loans, the amount of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$1,000,000 and in increments of \$1,000,000 in excess thereof unless the Administrative Agent otherwise consents, *provided* that such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds, if any;

(2) — the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; *provided* that only one such fee shall be payable in the event of simultaneous assignments to or from two or more Approved Funds;

(3) — the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more Credit Contacts (as defined in the Administrative Questionnaire) to whom all syndicate level information (which may contain material non-public information about Holdings, the Borrower, the other Loan Parties and their Affiliates and related parties or their respective securities) will be made available and who may receive such information in accordance with the Assignee’s compliance procedures and applicable laws, including Federal and state securities laws; and

(4) no assignment shall be effective unless and until such assignment is recorded in the Register.

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

(c) Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 10.07(d), from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, 10.04 and 10.05 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, and the surrender by the assigning Lender of its Note, the Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this clause (c) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.07(e).

~~(d) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and principal amounts (and related interest amounts) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Administrative Agent and, with respect to its own Loans, any Lender, at any reasonable time and from time to time upon reasonable prior notice.~~

~~(e) Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than (A) a natural person or (B) Holdings or any of its Subsidiaries or any of their respective Affiliates) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement owing to it); *provided that* (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or the other Loan Documents; *provided that* such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that directly affects such Participant. Subject to Section 10.07(f), the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.07(c) but shall not be entitled to recover greater amounts under such Sections than the selling Lender would be entitled to recover. To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 10.09 as though it were a Lender; *provided that* such Participant agrees to be subject to Section 2.10 as though it were a Lender. Each Lender that sells a participation with respect to a Loan 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 related interest amounts) of each Participant's interest in the Loan (the "**Participant Register**"). 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.~~

~~(f) A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 and 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant shall not be entitled to the benefits of Section 3.01 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 10.15 as though it were a Lender.~~

~~(g) Any Lender may at any time, without the consent of the Borrower or the Administrative Agent, pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided that* no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.~~

~~(h) Notwithstanding anything to the contrary contained herein, any Lender (a “Granting Lender”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an “SPC”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.01, 3.04 or 3.05), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the commitment to lend of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of \$3,500, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.~~

~~(i) Notwithstanding anything to the contrary contained herein, (1) any Lender may in accordance with applicable Law create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it and (2) any Lender that is a Fund may, without the consent of the Borrower or the Administrative Agent, create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it to the trustee for holders of obligations owed, or securities issued, by such Fund as security for such obligations or securities; provided that unless and until such trustee actually becomes a Lender in compliance with the other provisions of this Section 10.07, (i) no such pledge shall release the pledging Lender from any of its obligations under the Loan Documents and (ii) such trustee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents.~~

~~_____ Confidentiality. Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information, except that Information may be disclosed (a) on a need to know basis to its Affiliates and its and its Affiliates’ directors, officers, employees, trustees, investment advisors and agents, including accountants, legal counsel and other advisors (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 pursuant to the terms hereof); (b) to the extent requested by any Governmental Authority; (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement; (e) subject to an agreement for the benefit of the Borrower containing provisions substantially the same as those of this Section 10.08 (or as may otherwise be reasonably acceptable to the Borrower), to any pledgee referred to in Section 10.07(g), counterparty to a Swap Contract, Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement; (f) with the written consent of the Borrower; (g) to the extent such Information becomes publicly available other than as a result of a breach of this Section 10.08; (h) to any Governmental Authority or examiner (including the National Association of Insurance Commissioners or any other similar organization) regulating any Lender; (i) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender); or (j) in connection with the exercise of any remedies hereunder, under any other Loan Document or any legal action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder. In addition, the Agents and the Lenders~~

may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration and management of this Agreement, the other Loan Documents and the Loans. For the purposes of this Section 10.08, “**Information**” means all information received from any Loan Party relating to any Loan Party or its business, other than any such information that is publicly available to any Agent or any Lender prior to disclosure by any Loan Party other than as a result of a breach of this Section 10.08; provided that, in the case of information received from a Loan Party after the date hereof, such information (i) is clearly identified at the time of delivery as confidential or (ii) is delivered pursuant to Section 6.01, 6.02 or 6.04 hereof.

~~EACH LENDER ACKNOWLEDGES THAT INFORMATION FURNISHED TO IT PURSUANT TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING HOLDINGS, THE BORROWER, THE OTHER LOAN PARTIES AND THEIR AFFILIATES AND RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.~~

~~ALL INFORMATION, INCLUDING WAIVERS AND AMENDMENTS, FURNISHED BY HOLDINGS, THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT HOLDINGS, THE BORROWER, THE OTHER LOAN PARTIES AND THEIR AFFILIATES AND RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO HOLDINGS, THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.~~

~~_____ Setoff. In addition to any rights and remedies of the Lenders provided by Law, but subject to the Intercreditor Agreement, upon the occurrence and during the continuance of any Event of Default, each Lender and its Affiliates is authorized at any time and from time to time, without prior notice to the Borrower or any other Loan Party, any such notice being waived by the Borrower (on its own behalf and on behalf of each Loan Party and its Subsidiaries) to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other Indebtedness at any time owing by, such Lender and its Affiliates to or for the credit or the account of the respective Loan Parties and their Subsidiaries against any and all Obligations owing to such Lender and its Affiliates hereunder or under any other Loan Document, now or hereafter existing, irrespective of whether or not such Agent or such Lender or Affiliate shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or denominated in a currency different from that of the applicable deposit or Indebtedness. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set off and application made by such Lender; *provided*, that the failure to give such notice shall not affect the validity of such setoff and application. The rights of the Administrative Agent and each Lender under this Section 10.09 are in addition to other rights and remedies (including other rights of setoff) that the Administrative Agent and such Lender may have. Notwithstanding anything herein or in any other Loan Document to the contrary, in no event shall the assets of any Foreign Subsidiary that is not a Loan Party constitute collateral security for~~

payment of the Obligations of the Borrower or any Domestic Subsidiary, it being understood that (a) the Equity Interests of any Foreign Subsidiary that is not a Loan Party do not constitute such an asset and (b) the provisions hereof shall not limit, reduce or otherwise diminish in any respect the Borrower's obligations to make any mandatory prepayment pursuant to Section 2.03(b)(i).

~~Interest Rate Limitation.~~ Notwithstanding anything to the contrary contained in any Loan Document, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable Law (collectively the "Charges"), shall exceed the maximum lawful rate (the "**Maximum Rate**") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable Law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Rate to the date of repayment, shall have been received by such Lender.

~~Counterparts.~~ This Agreement and each other Loan Document may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument; ~~provided that, pursuant to the Reorganization Plan, the Lenders are automatically made parties to this Agreement without executing this Agreement.~~ Delivery by telecopier of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The Agents may also require that any such documents and signatures delivered by telecopier be confirmed by a manually signed original thereof; ~~provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature delivered by telecopier.~~

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

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

~~Severability.~~ If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby. The invalidity

of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

~~_____ Tax Forms. Each Lender and Agent that is not a “United States person” within the meaning of Section 7701(a)(30) of the Code (each, a “**Foreign Lender**”) shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender or Agent under this Agreement or changes its Lending Office or place of organization (and from time to time thereafter upon the request of the Borrower or the Administrative Agent), whichever of the following is applicable:~~

~~(i) — duly completed copies of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States of America is a party;~~

~~(ii) — duly completed copies of Internal Revenue Service Form W-8ECI;~~

~~(iii) — in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit H to the effect that (A) such Foreign Lender is not (i) a “bank” described in Section 881(c)(3)(A) of the Code, (ii) a “10 percent shareholder” of the applicable Borrower within the meaning of Section 881(c)(3)(B) of the Code or (iii) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code and (B) the interest payments in question are not effectively connected with the United States trade or business conducted by such Lender (a “**U.S. Tax Compliance Certificate**”) and (y) duly completed copies of Internal Revenue Service Form W-8BEN;~~

~~(iv) — to the extent a Foreign Lender is not the beneficial owner (for example, where the Foreign Lender is a partnership or participating Lender granting a typical participation), an Internal Revenue Service Form W-8IMY, accompanied by a Form W-8ECI, W-8BEN, U.S. Tax Compliance Certificate, Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that, if the Foreign Lender is a partnership (and not a participating Lender) and one or more beneficial owners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate on behalf of each such beneficial owner; or~~

~~(v) — any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower to determine the withholding or deduction required to be made.~~

~~(b) Each Lender and Agent that is a “United States person” within the meaning of Section 7701(a)(30) of the Code (each, a “**United States Lender**”) shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender or Agent becomes a Lender or Agent under this Agreement or changes its Lending Office or place of organization (and from time to time thereafter upon the request of the Borrower or the Administrative Agent) properly completed copies of Internal Revenue Service Form W-9, certifying that such Lender or Agent, as applicable, is entitled to an exemption from United States backup withholding tax, or any successor form.~~

~~(c) Each Lender and Agent that is entitled to an exemption from or reduction of non-U.S. withholding tax under the law of the jurisdiction in which the Borrower is formed or organized, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times reasonably requested by the~~

Borrower, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding, or at a reduced rate, provided that such Lender or Agent is legally entitled to complete, execute and deliver such documentation and in such Lender's judgment such completion, execution or submission would not materially prejudice the legal position of such Lender. Each Lender and Agent shall promptly notify the Borrower and the Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

(d) ~~The Borrower shall not be required to pay any additional amounts under Section 3.01(a) or indemnity with respect to such Taxes under Section 3.01(c) to (A) any Foreign Lender if such Foreign Lender shall have failed to satisfy the provisions of Section 10.15(a), (B) any United States Lender if such United States Lender shall have failed to satisfy the provisions of Section 10.15(b); or (C) any Lender if such Lender shall have failed to satisfy the provisions of Section 10.15(c); provided, that (i) if such Lender shall have satisfied the requirement of this Section 10.15, as applicable, on the date such Lender became a Lender, or ceased to act for its own account with respect to any payment under any of the Loan Documents, nothing in this Section 10.15 shall relieve the Borrower of its obligation to pay any amounts pursuant to Section 3.01 in the event that, as a result of any change in any applicable Law, treaty or governmental rule, regulation or order, or any change in the interpretation, administration or application thereof, such Lender is no longer properly entitled to deliver forms, certificates or other evidence at a subsequent date establishing the fact that such Lender or other Person for the account of which such Lender receives any sums payable under any of the Loan Documents is not subject to withholding or is subject to withholding at a reduced rate and (ii) nothing in this Section 10.15(d) shall relieve the Borrower of its obligation to pay any amounts pursuant to Section 3.01 in the event that the requirements of Section 10.15 have not been satisfied if the Borrower is entitled, under applicable Law, to rely on any applicable forms and statements required to be provided under this Section 10.15 by the Lender that does not act or has ceased to act for its own account under any of the Loan Documents, including in the case of a typical participation, and such Lender has provided such required forms and statements.~~

(e) ~~Each Lender agrees that if any form or certification previously delivered by it expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so. Notwithstanding anything to the contrary herein, no Lender or Agent shall be required to deliver any form, certificate or other document pursuant to this Section 10.15 that such Lender or Agent is not legally able to deliver.~~

(f) ~~The Administrative Agent may deduct and withhold any taxes required by any Laws to be deducted and withheld from any payment under any of the Loan Documents.~~

~~GOVERNING LAW. THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.~~

~~Submission To Jurisdiction; Waivers. Each Loan Party hereby irrevocably and unconditionally:~~

(i) ~~submits for itself and its property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of (i) any State or Federal court of competent jurisdiction sitting in New York County, New York and (ii) appellate courts from any thereof;~~

(ii) ~~consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such~~

court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(iii) — agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid at its address set forth in Section 10.02 or at such other address of which the Administrative Agent shall have been notified pursuant thereto;

(iv) — agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right of the Administrative Agent or the Lenders to sue in any other jurisdiction; and

(v) — waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

~~_____ WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 10.18 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.~~

~~_____ Binding Effect. This Agreement shall become effective upon the satisfaction or waiver of the conditions precedent set forth in Article IV and thereafter shall be binding upon and inure to the benefit of the Borrower, each Agent and each Lender and their respective permitted successors and assigns, except that the Borrower shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders.~~

~~_____ Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party or any other obligor under any of the Loan Documents or the Secured Hedge Agreements (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent. The provision of this Section 10.20 are for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.~~

~~_____ USA PATRIOT Act. Each Lender hereby notifies the Loan Parties that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name, address and tax identification numbers of the Loan Parties and other information that will allow such Lender to identify the Loan Parties in accordance with the Act.~~

~~_____ Acknowledgements. Each Loan Party hereby acknowledges that:~~

~~(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents;~~

~~(b) neither the Administrative Agent nor any Lender has any fiduciary relationship with or duty to any Loan Party arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Administrative Agent and Lenders, on one hand, and the Loan Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and~~

~~(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Lenders or among the Loan Parties and the Lenders.~~

~~_____ Releases of Guarantee and Lien.~~

~~(a) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Administrative Agent is hereby irrevocably authorized by each Lender (without requirement of notice to or consent of any Lender except as expressly required by Section 10.01) to take any action reasonably requested by the Borrower having the effect of releasing any Collateral or Guarantee Obligations (i) to the extent necessary to permit any Disposition of the applicable Collateral or Guarantor, in each case as permitted by the Loan Documents or that has been consented to in accordance with Section 10.01 or (ii) under the circumstances described in paragraph (b) below.~~

~~(b) Subject to the terms of the Intercreditor Agreement, at such time as the Loans and the other Obligations under the Loan Documents shall have been paid in full, the Collateral shall be automatically released from the Liens created by the Collateral Documents, and the Collateral Documents (other than with respect to the provisions thereof expressly stated to survive termination) shall automatically terminate, all without delivery of any instrument or performance of any act by any Person.~~

~~[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]~~

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

~~[REORGANIZED RDA HOLDING CO.]~~

by

Name:—

Title:—

~~[REORGANIZED THE READER'S DIGEST
ASSOCIATION, INC.]~~

by

Name:—

Title:—

~~JPMORGAN CHASE BANK, N.A.~~, as
Administrative Agent

by

Name:—
Title:—

Document comparison done by DeltaView on Friday, January 08, 2010 3:23:31 PM

Input:	
Document 1	interwovenSite://STBDMS/Active/11854677/4
Document 2	interwovenSite://STBDMS/Active/11854677/5
Rendering set	STB Option 1

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Deletions	152
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Moved to	0
Style change	0
Format changed	0
Total changes	397